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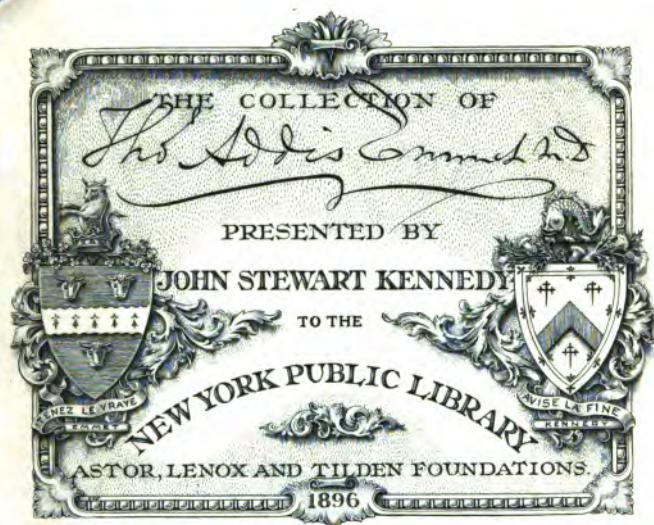
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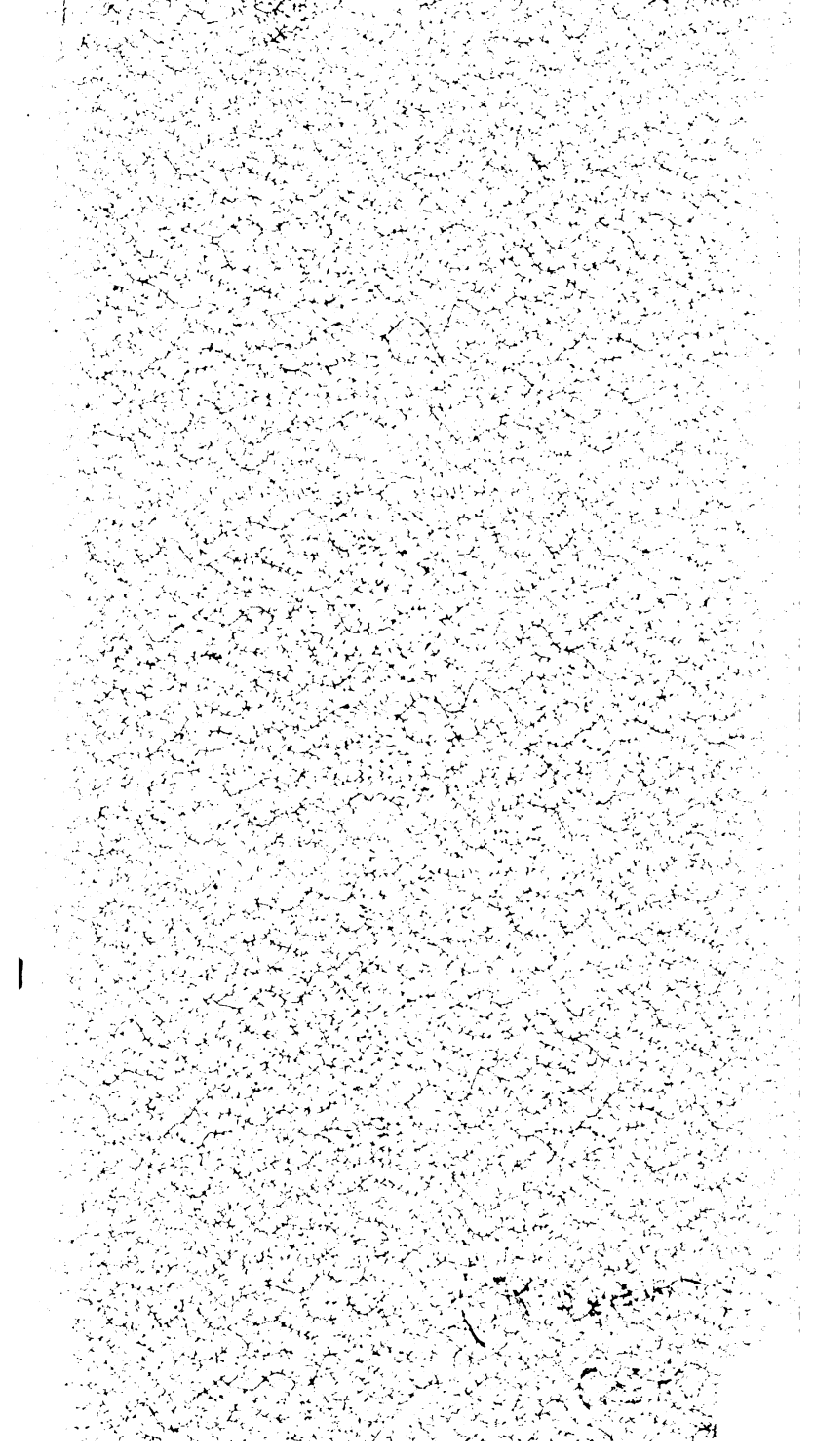
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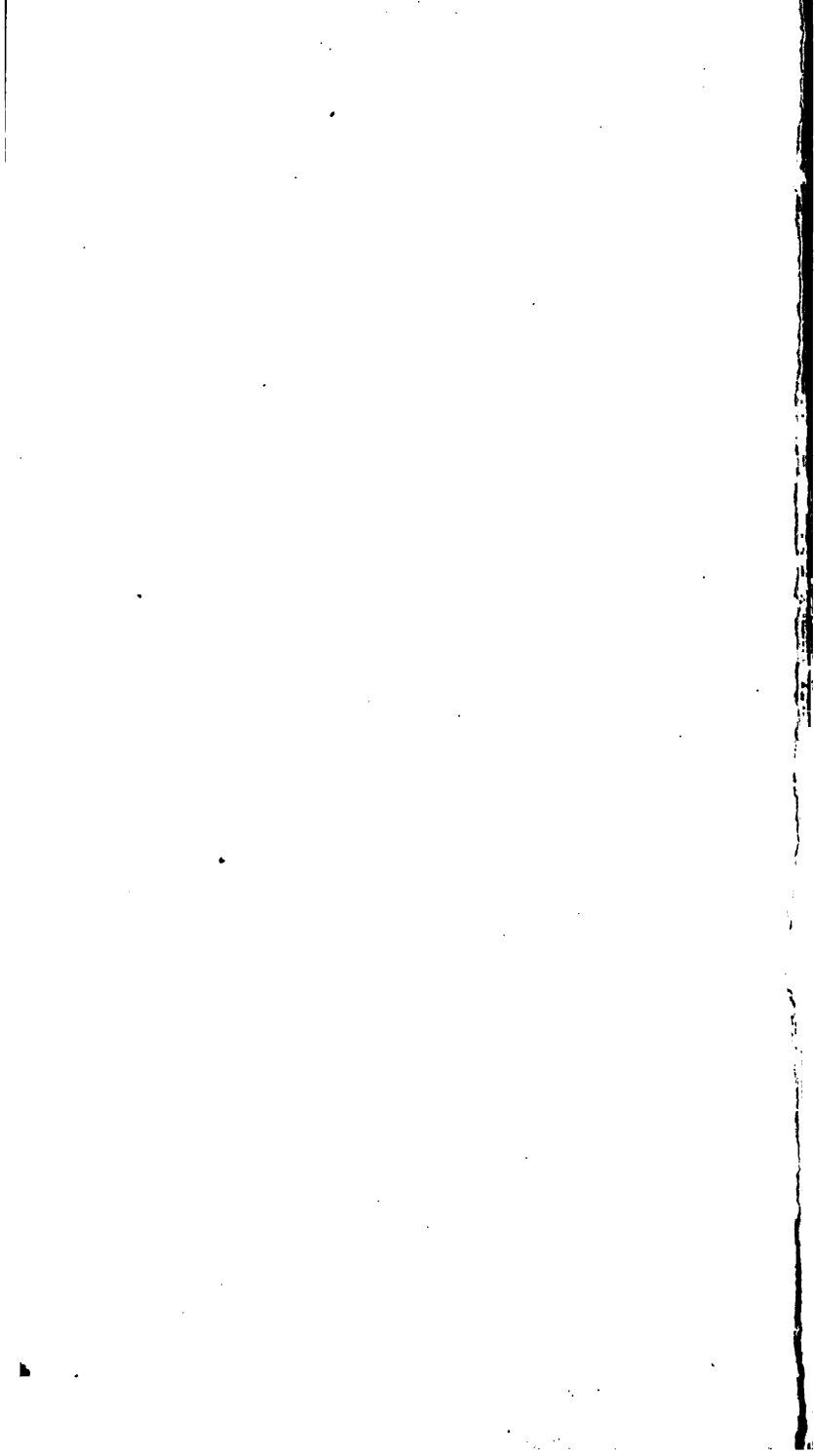
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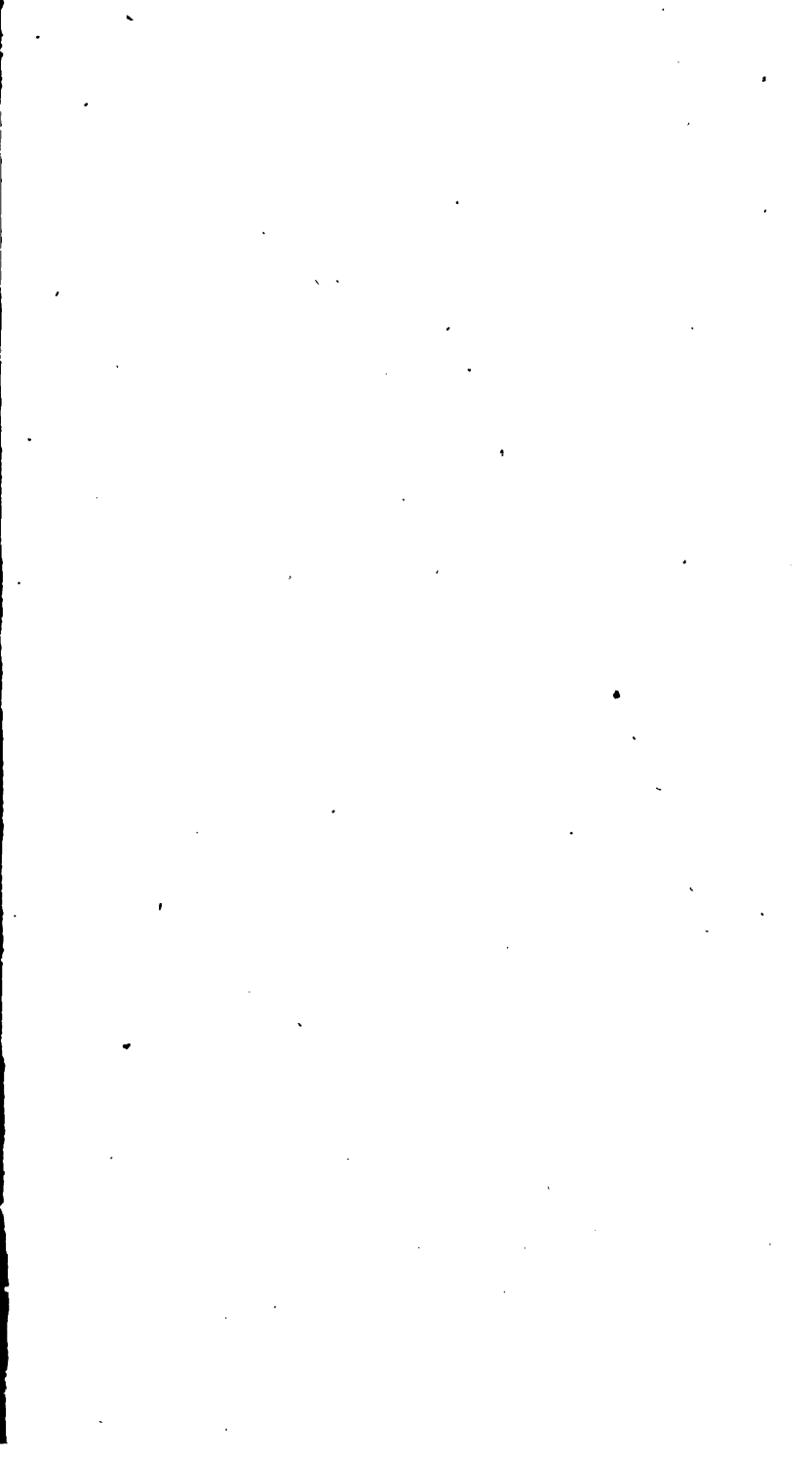


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REPORT
OF THE
PROCEEDINGS

Cases of High Treason,

AT A

COURT OF OYER AND TERMINER,

HELD AT THE NEW SESSIONS HOUSE,

UNDER A

SPECIAL COMMISSION,

**IN THE MONTHS OF AUGUST, SEPTEMBER, AND
OCTOBER, 1803.**

**BY WILLIAM RIDGEWAY, ESQ.,
BARRISTER AT LAW.**

IN TWO VOLUMES

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1803.



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A R E P O R T

OF THE

PROCEEDINGS

IN

Cases of High Treason.

SPECIAL COMMISSION.

Wednesday, 7th September, 1803.

Judges present:—*Lord NORBURY, Mr. Justice FINUCANE, Mr. Baron GEORGE, and Mr. Baron DALY.*

John Killen and John M'Cann, otherwise John M'Kenna, were put to their challenges, and the following Jury was sworn, after nineteen were set aside on the part of the Crown, and thirty-one were challenged by the Prisoners.

James Murray,
Hen. W. White,
Thomas M'Pherson,
John West,
Robert Wybrants,
Richard Robinson,

John Brebner,
Jeremiah Jones,
Thomas Franklin,
James Cuppaidge,
Robert Fletcher,
Thomas Harricks.

The Prisoners were given in charge—Vid. Indictment
No. 7,—*Rourke's case.*

No. 8.

B

Mr.

Mr. O'GRADY opened the Indictment.

Mr. PRIME SERJEANT.

My Lords, and Gentlemen of the Jury,

IT falls to my lot in this case to state very briefly, and in a few words, the circumstances which, as I am instructed, will appear in evidence against the prisoners at the bar—In so doing, I shall follow the example which has been so laudably set by the ATTORNEY GENERAL, so much to the honor of himself, and the benign intentions of the administration which now governs the country, by not adding to the simple narration of facts, any thing by way of aggravation, if any thing could aggravate the imputed crime—At the same time it is our duty nothing to extenuate.

Gentlemen, if any persons should have reason to admire the constitution, which they have endeavoured to subvert, the prisoners tried at this commission ought to admire it. Nothing has been stated against any of them in anger, nor has any indignation, which might be supposed to prevail upon such an occasion, been manifested in any respect.—No attempt has been made to prejudice a jury, with regard to the guilt or innocence of any individual.

Gentlemen, the facts of the present case are very nearly connected with those of the trial of yesterday.—The witnesses are the same—the indictment is the same—the period of time is the same—and a person has been convicted upon the testimony of those witnesses. But, Gentlemen, it is my duty to beg of you to discharge your minds of any event, which has antecedently occurred, and to confine yourselves to balancing and estimating the evidence, which shall appear before you this day. Their credit was sifted to the last degree; but still they are open to further investigation, if it shall be thought necessary; because what has already happened, should not at all interfere with your judgment of the evidence. The persons to whom I allude are *Michael Mahaffy* and *John Ryan*.—They had been employed in the business of hawking or peddling—they lodged in the house of a Widow Doyle, in *Dirty-lane*, leading from *Thomas-street*. They were employed in the course of the day in their usual

usual business, and, after having dined, had gone out in the evening in quest of some money which was due to one of them; but finding it rather late, they returned towards home, and met a number of people, some armed with pikes, and others with blunderbusses.—*Ryan* was seized and pushed with violence down the lane, and *Mabaffey* was driven down in like manner. *Ryan* is an infirm man, and liable to a sickness in his stomach—the blow affected him, as might be expected, and from it, together with the alarm he was in, he was seized with a sickness, and his head became dizzy—and therefore he cannot give so precise an account, with regard to individuals, as *Mabaffey*. They both agree, that they were obliged to go down this lane, and to go to the repository, and were obliged to take pikes—then were forced to go up the lane to *Thomas-street*. The crowd increased, and being mostly armed, proceeded to acts of violence. They were headed by leaders, some of whom the witnesses can identify.—They saw a trooper and a watchman killed;—but the transaction to which I particularly call your attention was, when they saw two persons lying, not quite dead—they had some remains of life, and were heard to groan.—Here the facts apply to the prisoners—they were known to one of the witnesses. *Killen* kept a public-house, or cellar, in *Thomas-street*, near *James's-street*.—He is known by a name, which one can hardly introduce to a serious trial—he was known as the husband of the dirty-cook.—The other prisoner, *M'Cann*, kept a small ale-house at the corner of *Dirty-lane*.—These persons were armed, and extremely active in committing deeds of violence, particularly to those two poor wretches, who were lying upon the ground.—*Killen* thrust a pike into the body of one of those persons, and drawing it out again with deliberation, he cried out—"Now his business is done."—*M'Cann* fired at the other person, who lay upon the ground in the agony of death.—These are the material facts which relate to the prisoners.

I shall not detain you, Gentlemen, by a relation of the acts of other individuals, who are not now before you.—It would be contrary to my own disposition to attempt to inflame your minds, or to mix any other circumstances with those of the present case.—And therefore,

fore, Gentlemen, I shall conclude with entreating you to discharge your minds of what you may have heard upon former occasions. You are to consider the charge now made against the prisoners, and their case, merely upon the facts which shall appear this day. I shall only add, that it is necessary, as has been done upon the former cases, to go into some preliminary evidence, to shew, that their proceedings upon the 23d of *July*, which, in law, amount to High Treason, and support the charges of compassing the death of the King, and levying war against him. These will be previously proved, and then the witnesses will be produced to confirm the circumstances which I have stated relative to the prisoners.

Edward Wilson, Esq. examined.

Gave the same evidence as in the first case—Vid. page 37, *Kearney's case*.

Donough M'Craith, Esq. examined.

Gave the same evidence as in last trial—Vid. *Rourke's case*.

Cross-examined by Mr. MAC NALLY.

Q. Did this banditti put a pike into your hand?

A. They did.

Q. On your making your escape you parted with your pike?

A. No; I was not suffered to take it away.

Q. But, if you had been permitted, you would not consider it a matter of safety to carry it away with you?

A. No, certainly, I would not have carried it one inch.

Examination resumed by the Counsel for the Crown.

Q. Mr. M'Craith, it may be necessary to explain what you mean by saying you were not permitted to carry away your pike?

A. There was one man more violent than the rest at the beginning, and was going to pike me several times.—I offered him some money to befriend me—I told him the money would be of no use to him if the others took it—He then seemed inclined to assist me, but would not allow

low me to speak to him, and he cried out—"Damn you, don't speak to me."—When the attention of the people were drawn towards the carriage, I said to the man, "This is the time, if you have a mind to serve me."—He took hold of the pike, and I gave him what money I had in my pocket, twenty shillings in silver, and a guinea and a guinea-and-half note—He kept the pike and the money and I got off,

Cross-examined again.

Q. But you would have parted with your pike, if you were let off with it?

A. I would have done so, as soon as I thought myself safe.

Q. You would not walk off with your pike upon your shoulder?

A. I did not carry it upon my shoulder.

Q. But suppose that no coercion was used, or pursuit, or a negotiation of money, would you, upon the moment of making your escape, carry a pike through the town, or would you throw it away?

A. I would have considered it very unsafe to carry a pike through the town.

Q. (*By the Counsel for the Crown.*) You mention you saw one man in scarlet—Did you observe any other leaders?

A. I observed many who had more authority than others.

Q. Did you observe their dress or their arms?

A. There was one man who wished to have me piked, and he had a blunderbuss; I argued with him, and said, that I never did him any harm.

Q. But you say he had a blunderbuss?

A. He had, and there were others had blunderbusses as well as he.

Lieut. Coultman examined.

Gave the same account as before. Vid. No. 1, *Kearney's case*, page 48.

Serjeant Thomas Rice examined.

Proved the Proclamation as before.—Vid. same case, page 53.

Michael

Michael Mahaffey, examined by Mr. MAYNE.

Q. Where did you live upon the 23d of July last?

A. At the widow *Doyle's*, in *Dirty-lane*.

Q. You had a partner who lived with you?

A. Yes, *John Ryan*.

Q. Do you recollect going out upon the evening of that day?

A. We went out in consequence of *Ryan's* being promised half-a-crown that was due to him by *Mrs. Nugent*, and for an old shirt and waistcoat, which he had purchased. We stopped near the market-house, thinking it was too late, and were considering, whether we should buy dimity or printed goods; we thought it too late, and we returned towards home.

Q. Proceed now and state what happened?

A. At the top of *Dirty-lane*, a man of the name of *Felix Rourke* stopped me, and desired me to go down the lane; I turned on my heel to know what he was about, and he pulled out a blunderbuss, and cocked it, and drove us down the lane.

Q. Was there any other person there besides *Rourke*?

A. There was a second man came to his assistance with a blunderbuss, and said he would blow our brains out if we did not go down.

(The witness then stated other circumstances respecting *Rourke's* conduct, as in the last trial—Vide No. 7, *Rourke's* case.)

Q. Look at the bar, and see if you know the prisoners?

A. I do know them.

Q. What are their names?

A. *John Cullien* and *John M^cCann*.

Q. Did you see them that night?

A. I did.

Q. Where?

A. Where the two men were lying.

Q. By the Court. Had you known them before that night?

A. I did.

Q. How long?

A. I

A. I often went into *Cullien's* cellar to take a snack ; I had no acquaintance with the other, but I knew where he lived.)

Q. *Cullien*, you say, keeps a place of entertainment, was he known by any other name ?

A. I described him as the person who was married to the Dirty Cook ; he was her third or fourth husband.

Q. Was he known by that description ?

A. He was.

Q. Where did *M'Cann* live ?

A. In *Dirty-lane*.

Q. Did he keep a public-house ?

A. He did.

Q. Were you ever there ?

A. I do not recollect that I ever drank there.

Q. Did you know his name ?

A. I knew his name was *M'Cann*.

Q. Had you been in or about *Thomas-street* before that time ?

A. I was, and *James's-street* for three years before.

Q. Where did you see them upon that night ?

A. Where I saw the two men lying, and where *Rowke* ordered the men to do their duty.

Q. That was in, *Dirty-lane* ?

A. It was.

Q. Were the two men dead or alive ?

A. They were groaning upon the ground.

Q. Did you see any thing done to them or against them ?

A. I did ; I saw *Cullien*, that big man, drive his pike into the body of one of the men.

Q. (By a Juror. Was the man lying on the ground at the time ?

A. He was.)

Q. Did you see any thing done to the other man ?

A. I saw *M'Cann*, the prisoner, fire at the other man that was lying.

Q. What did he fire with ?

A. A long pistol.

Q. Were there at this time a great many men with pikes ?

A. There

A. There were.

Q. Are you sure, you can say, that it was *Killen* and *M'Cann*, who did as you have mentioned ?

A. I am.

Q. (*By a Juror.* What time of night was this ?

A. It was getting quite dark.)

Q. Were you near them ?

A. I was.

Q. How near ?

A. Just at *Cullien's* back.

Q. (*By a Juror.* Had *M'Cann* a pike ?

A. No.)

Q. You and *Ryan* got pikes there ?

A. Yes.

Q. (*By a Juror.* How near were you to *M'Cann* ?

A. I was within about four yards of *M'Cann*.)

Q. (*By the Court.* Had you seen *M'Cann's* face before that night ?

A. I did, but I did not see his face before I saw him in that place.)

Q. Did you see both his face and his back that night ?

A. I did.

Q. How was *M'Cann* situated ?

A. He was opposite to me, about four yards distant.

Q. Did you hear any thing said ?

A. *Cullien* said, " that their business was done ;" or, " we have done their business,"—either one or other.

Q. Did you see these two men when they were first attacked ?

A. No ; they were lying down when I saw them.

Q. Did you stay long there ?

A. Immediately after that, *Rourke* came up, and defired me to go down ; *Ryan* was frightened with the shot, and screeched ; and began to strain with an empty vomiting ; I told him not to bawl out, or we would be murdered.

Q. Then you went to him ?

A. I

A. I did, and he caught me by the hand.

Q. What happened next?

A. Then *Rourke* gave me a push, and drove me over to get a pike.

Q. Were pikes given to you?

A. There was to me and my comrade, by *Felix Rourke*.

Q. What was done next?

A. *Rourke*, and a man with a three cocked hat, marched at the head of the party, he was a thin small young man.

Q. Do not mention his name—Where did you go to?

A. Into *Thomas-street*.

Q. Did any thing particular happen, or did you see any person meet abuse when you were in *Thomas-street*?

A. I did.

Q. What did you see?

A. Before we got into *Thomas-street* I saw a soldier, as I think he was, lying.

Q. Was he alive or dead?

A. He seemed to be dead.

Q. You passed him?

A. We did.

Q. What next happened?

A. There was a watchman making a noise, and *Rourke* ordered the pikemen to advance and pike him.

Q. Was it done?

A. It was, Sir.

Q. Was he piked to death?

A. He was, I saw him killed.

Q. Did the body of people follow those persons?

A. They did.

Q. Which way did the party move?

A. They turned towards the market-house.

Q. What did you see next particular?

A. I saw them kill, I think, a soldier—a foot soldier.

Q. (*By a furor.*) Who killed him?

A. I cannot say.

Q. Was it any of the party?

A. It was.

Q. Was that in *Thomas-street*?

A. Yes, upon the left-side.

Q. What more did you see?

A. I was near the corner of a street, and saw them kill another man.

Q. Was he a soldier?

A. I cannot say.

Q. Mention what you saw about a horse?

A. I heard a man groan.

Q. But I ask you, did you see any thing of a horse?

A. I did.

Q. Where was that?

A. In *Thomas-street*.

Q. What was it?

A. I saw *Felix Rourke* advance to a horseman, and ask him where he was going.

Q. Was he a soldier?

A. He was either a light-horseman or a dragoon.

Q. What did you see done?

A. *Rourke* asked him where he was going, and the horseman was in such a fright he could not answer him, or he did not answer him; he then fired at the horseman, and the man bent from the horse.

Q. Who do you say fired?

A. *Felix Rourke*.

Q. What do you mean by bent?

A. He was just falling when the pikemen got at him.

Q. Did they do any thing?

A. They did.

Q. What?

A. Both man and horse were piked.

Q. Was the man killed?

A. He was.

Q. What next happened?

A. We began to beat back and forward, and at last moved towards *Meath-street*, when my comrade and I, and four others, got off.

(The witness here gave an account of his escape and subsequent arrest, &c. as in *Rourke's case*—
Vid. No. 7.)

Cross-

Cross-examined by Mr. CURRAN.

Q. You were concerned in this business, and armed with a pike in *Thomas-street*?

A. I was, Sir.

Q. Do you not conceive that you might be hanged if it were proved that you were there in the manner you state, and it did not appear you were there by force?

A. I was forced to it.

Q. If that did not appear, would it not expose you to the inconvenience of being hanged?

A. There was no one knew any thing of me till I told it myself.

Q. Do you mean to say that you told it for the purposes of justice, and to bring murderers to light?

A. I wish to have murderers discovered.

Q. Not the accomplices to be sure?

A. I wish to have myself cleared, as I was innocent.

Q. Did you never think you were in any danger yourself of being convicted and hanged?

A. Why surely, I might be convicted although I was innocent at the same time.

Q. Did you think you might be so convicted, even though you thought yourself innocent?

A. Why of course, if any body saw me there I could not think else.

Q. Was it for fear of that that you ran away to the *Queen's County*?

A. By virtue of my oath it was from the mob I ran away.

Q. Why, did you think all *Sunday* that you were in danger of the mob?

A. I did, I thought myself in danger all along, because I never knew the like.

Q. Were you afraid that every carman upon the road would kill you?

A. I did, because I knew nothing of the matter.

Q. You went to bed on *Sunday* night, and on the next morning you set off with the same fear?

A. I went towards *Ennis*.

Q. And with the same fear?

A. The fright could not leave my heart, I saw such barbarous murders committed.

O. You

Q. You have given different accounts with regard to your acquaintance with the prisoners, you scarcely knew *M'Cann*?

A. Yes.

Q. Your acquaintance with him was scarcely any at all?

A. Yes.

Q. How much was it?

A. To see him in his own house, and hear his name called, but I was not intimate with him.

Q. Had you known more of the other?

A. I did.

Q. Did you drink with him?

A. I have drank in his place.

Q. He sold ale?

A. No, small-beer; and I have eat in his place.

Q. Now recollect yourself before you answer; upon the oath you have taken, had you ever any quarrel whatever with *M'Cann*?—look at the Jury.

A. By virtue of my oath I had not to my knowledge.

Q. Did you ever owe any debt to a man of the name of *Keegan*?

A. I did.

Q. Did *Keegan* ever arrest you for that debt?

A. No, he never did.

Q. Nor endeavour to arrest you?

A. Not that I heard.

Q. Did you ever charge *M'Cann* with having set you for *Keegan*?

A. No, I never did.

Q. Did you ever, upon any occasion, strike that *Keegan*?

A. I was one night in his house, and I was drunk, and we struck each other, as we suppose.

Q. Did *M'Cann* interfere upon that occasion?

A. I cannot say, he might for ought I know.

Q. Did you, upon any occasion, with respect to any conduct of *Keegan* or *M'Cann*, declare any enmity against *M'Cann*?

A. No, never since I was born.

Q. Pray, Sir, what kind of character had you in the *Kildare* militia, were you not much vilified in it?

A. I

A. I do not know that; there are men here who know me.

Q. Did you not go by the name of the ring-dropper?

A. As to that they might say it—I sold rings.

Q. Were you not called the ring-dropper?

A. There were envious people called me so, because I would not treat them.

Q. Do you not believe they meant to say, you sold pinch-beck rings for gold?

A. No, never, because it was a thing I never did.

Q. I see it must have been false; but was not that their idea, that they meant to apply the rogue in this matter?

A. To be sure, people that did not know the difference.

Q. Was it not meant to say, that you acted in an unconscionable manner, by selling one species of rings for another?

A. I never sold them in that way.

Q. I do not mean to say that you did; or that a marriage with one of your rings might not be as good as any other; but they entertained a bad character of you?

A. No,—there are some here to give a character of me.

Q. What are their names?

A. There is a sergeant of the regiment here.

Q. Did you hear that a message was sent to *Belfast* for some person to come up for the purpose?

A. I saw a corporal here.

Q. Was he not sent for, as you believe?

A. I believe so.

Q. To give you a character?

A. Yes.

Q. That was because you knew you would get a bad character?

A. They could not give me a bad character.

Q. You would not like it I suppose?

A. They could not give me one unless they wronged me—I always did my duty as a soldier, only I was not so clean as others, but I was as loyal as any.

Q. (*By a Juror.*) You say you saw the Prisoners at the time Rourke desired the mob to do their duty?

A. I

A. I did.

Q. You say that one was armed with a pike and another with a pistol?

A. Yes.

Q. Are you positive that they were there at that moment?

A. Yes.

Q. And acted as you say.

A. Yes.

John Ryan, examined by Mr. TOWNSEND.

Gave the same evidence upon his direct examination, as in *Rourke's Trial*, Vid. No. 7.

Cross-examined by Mr. MAE NALLY.

Q. The man whom you have heard called *Rourke*, had a white coat on?

A. He had a light coat.

Q. You had a green coat?

A. I had this old coat.

Q. It is green?

A. Yes.

Q. When you ran towards *Meath-street* you had been suspected by some of the party of running away?

A. How suspected.

Q. Why they thought you would leave them?

A. They said they would run their pikes through me.

Q. Why did they say that?

A. Because I said I would throw away my pike.

Q. You said that before the whole mob?

A. No, but to the four men.

Q. Where did you say that?

A. In *Meath-street*.

Q. Did those men follow you?

A. No, we were in a breast together.

Q. Were they running away?

A. I did not know whether they were intending to run away—or were going on.

Q. Was it after you all separated from the main body in *Thomas-street*?

A. Yes.

Q. When did you part from these four men?

A Two

A. Two of them went off and turned back to town when we got into the fields.

Q. What hour was it when you got into the fields.

A. I cannot say.

Q. It could not be more than eleven o'Clock?

A. No, I believe not.

Q. Did you lie down in the fields?

A. No, we kept walking about.

Q. Did the other two men remain with you?

A. They did 'till dawn of day.

Q. Why not take the opportunity of going off in the dark?

A. I could not for the men.

Q. Why you were only two against two?

A. Oh, one of them might kill 6 score of me.

Q. Did you and *Mahaffy* separate?

A. I took him by the hand and kept hold of him while we were in *Thomas-street*.

Q. Was that after you got the pike?

A. Yes, and we never separated—we kept together in order to get off.

Q. Were there guards at each Street?

A. I did not see the Streets guarded, only they had an eye to us.

Q. You saw no guard at any place while you were in *Thomas-street*?

A. No.

Q. But you had every opportunity of going down *Meath-street*?

A. Just after the killing of the horseman they were hovering about and we made off.

Q. *Mahaffy* is your partner?

A. He is.

Q. What does he deal in?

A. The same goods as I do.

Q. He sometimes sells trinkets?

A. He might, but not since I knew him.

Q. He sold some rings?

A. I heard he sold pinchbeck rings.

Q. Did you ever hear of his pretending ring dropping?

A. I never heard of it until he said he was attacked with it yesterday.

Q. Did you lodge at Mrs. *Doyle's*?

A. Yes.

A. Yes.

Q. You say you saw pikes working?

A. I did.

Q. Did you ever see *Mahaffy* working as if with a pike, though without one?

A. Upon my oath, and by all the books in the world I never did.

Q. It is odd you used the same expression yesterday as Mrs. *Doyle* did upon that subject?

A. I never heard such a thing.

Q. As you were the intimate friend of *Mahaffy*, do you not know that he was acquainted with *M'Cann*?

A. I do not know whether or not.

Q. Did you never hear that he was?

A. I did not—nor never saw him till I was in gaol.

Q. Did you never hear him say any thing about *M'Cann*?

A. I never did.

Q. Were you present at Mrs. *Doyle's* when *Mahaffy* made a motion with his hand and said he would work?

A. I was not.

Q. Might not such a thing happen without your knowing it?

A. I do not know whether it might or not—I did not hear it.

Q. (*By a Juror.*) Did you breakfast that morning at Mrs. *Doyle's* in company with *Mahaffy*?

A. Yes.

Q. You were his partner?

A. Yes off and on.

Q. You lodged together?

A. Yes.

Q. And slept together?

A. Yes.

Q. And communicated upon your transactions in life?

A. We had no transactions but selling little goods.

Q. You ran off together?

A. Yes.

Q. And went to *Mountrath* together?

A. Yes.

Q. Did you conceal yourselves?

A. As we had done no injury we thought to get off at both sides.

Q. Did

Q. Did you find the country quiet ?

A. I did.

Q. Did you not conceal yourselves ?

A. How conceal ourselves.

Q. Keep yourselves private ?

A. We went bye ways.

Q. What hour did you travel ?

A. In the morning and all hours in the day.

Q. As you were travelling through the country did you not see the King's foldiers ?

A. Only at *Rathcoole*.

Q. Did you tell them that you were flying from *Dublin* and what had happened ?

A. I did not tell them I ran off, not knowing what to do, I had my life and that was enough.

Q. You never told a word till you were taken upon suspicion ?

A. I did not.

Q. And then you told every thing as you did this day ?

A. I told so far forth as I could.

Q. (*By the Court.* When you were taken up did you tell every thing ?

A. Not till I was brought to Lord Castle Coote, when I told him every thing so far forth as I knew, and I only knew one man which I told him.)

Q. You were frequently examined ?

A. I was.

Q. You told him a better account upon the second, than you did on the first time ?

A. I cannot say, so far forth as I could recollect I told him.

Q. He examined you several times ?

A. Twice I think.

Q. You and *Mahaffey* were sent up by him as persons suspected to be rebels ?

A. I suppose we were.

Q. (*By a Juror.* Do you know the Prisoners or either of them ?

A. I never saw them 'till I saw them in gaol to the best of my knowledge.)

Here extracts from the proclamation were read,
Vid. No. 1. *Kearny's* case, page 54.

No. 8.

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The case closed on behalf of the Crown.

Mr. CURRAN.

My Lords, and Gentlemen of the Jury :

I am Counsel for the two prisoners at the bar ; and it is my duty to lay before the Court and you, such defence as they have, in that point of view in which it appears to me to be most available for them.—I do cordially agree with the learned Counsel who stated the case on behalf of the Crown, that there is a mildness in the conduct of the present government, and a humanity in the mode of these prosecutions, to which I bear the testimony of my strongest approbation and fullest respect.—He claims for the government, under whom he is acting in these prosecutions, the merit of temper, humanity and moderation—As a lawyer, I feel always delighted when I see that character can be claimed with justice—As a lawyer, I feel happy in being able to say, that in the long retrospect of historical transactions, few have been the times, and few the persons, who have laid themselves open to such eulogium.—Cruelty is the natural compeer of guilt and of fear ; it is the natural resource of criminal weakness and timidity—The wise man sees danger in its natural and true extent, and is alarmed only in proportion—the bold man feels that he can bear to be humane, and humanity is also the natural consequence of a mind highly cultivated—on the part of the prosecutor, there should be a mildness and a softness in the pursuit of justice, while the Counsel for the accused is to defend with zeal the client whose advocate he is ; and whenever any example of a contrary kind has been transmitted by the faithfulness of history, we find that those departures from humanity have always been adopted by men of inferior understandings and depraved hearts ; it is with pain we see in Lord *Coke*, and with indignation in Lord *Verulam*, to whom such talents had been allotted, too much reason to impute harshness of behaviour ; at the same time I feel an anxious desire to disprove the sentence pronounced by a great poet, rather perhaps for the measure of the line, than regarding its truth as applicable to the man, when he

he said, "he was the meanest of mankind." And I am the less disposed to allow the judicial opinion of Mr. Pope, who, I believe, some where says—"That forgetfulness is one of the sciences."—I should not have thought of this, if I did not find an inclination in the mind of the learned Counsel to adopt that doctrine; he seemed to think, that forgetfulness is one of the sciences, for he stated as a lesson and a proof of forgetfulness a transaction, which he wished you to remember.—A case, said the learned Counsel, as if lecturing upon sciences, happened yesterday, which I bring to your recollection, in order that you may forget it, so that he think, it must be forgot the moment the mind is inculcated with it; and in order that your oblivion might be the more complete, he took no small pains to remind you of the fact. I allude to that case, said he, with another view, with a view of putting you, Gentlemen, upon your guard, that you may take care not to forget, to remember it; the fact was, that two witnesses, who were to be examined this day, had performed effectually yesterday.—I would have you remember it, two acknowledged confessed accomplices in the odious transactions of which they gave evidence, having no possibility of saving their own lives, except by procuring substitutes by their testimony, deposed against the prisoner, who was accordingly convicted.

But, Gentlemen, it does appear to me, that the efficacy of one conviction may indeed be considered as a sufficient performance for two loyal informers; I shall venture to suggest to you, that if the conviction of accomplices in a crime, who take refuge from the gallows by flying to the sanctuary of this table, I say, I suggest to you, whether the examples you have seen call upon you for encouragement.—I know that guilt and crime may work their way to safety, and make some atonement for their offences, by describing the atrocities of others; and I would, under the indulgence of the Court, as an allusion has been made to the transaction of yesterday, beg leave to suggest, in order to remind you, if you think it right to allude to the statement of that transaction, that there was a great difference of circumstances between the case yesterday, and what has hitherto appeared, and will hereafter appear to day—I am
far

far from thinking that the Court would wish that oral reports of what happened at former times should be evidence for the jury; yet, however anxious they may be in that particular, when a retrospect is made that might have a criminating effect, it could not be passed by without observation.

Gentlemen, I do not mean to go into any sort of length of detail upon that subject; but when the Counsel for the Crown thought it prudent to introduce the topic, it is right for the Counsel for the prisoner to make a stand against it; however, I will confine myself to this, that there was evidence of an *alibi*, produced against my opinion; but it is the right of the prisoner, in delicate cases, to determine for himself, and Counsel is only to intimate what the inclination of his judgment is, but the prisoner is to determine upon the mode of his own defence; I allude to no particular evidence, but if the case of yesterday be considered, the present will not be found to be similar to it.

Gentlemen of the Jury, there is one observation that I will make, and I think it will have the concurrence of the Court:—The evidence against the prisoners is distinguishable into two departments, one is the establishment of a certain combination of occurrences, highly criminal and scandalously atrocious, I mean the proof of what was done upon that unhappy night; the establishment of this fact, that there was an insurrection, with a treasonable design, odious in its purposes, and despicable in its force, all that I do not see that I can, even if my duty called for it, attempt to contradict; it is no affectation; it is clear the jury must believe it, I feel that I myself believe it—but the observation I would add is this, the conviction upon your minds of all those outrages, does not give the remotest shadow of crimination against any man accused of participating in them; on the contrary, it is a call upon the mind of every honest and respectable man to question itself, and say, whether a man, of the description of the prisoner, could be capable of abetting, approving, or co-operating in it—you are called upon to adopt that humane expression of the law, that even when the person accused is brought to the bar for trial, puts up a prayer to Heaven, that God may send him a safe deliverance; you are bound to adopt

adopt that religious sentiment, and you should enter into the consideration of the testimony against him with this presumption written upon your hearts, that he is to be deemed innocent till the contrary shall be proved.—I will carry the observation further, the atrocity of any crime is apt to make such an impression upon the heart of a good and feeling man, as not to leave the judgment free to act as it would upon ordinary occasions; it is the nature of superstition to believe extraordinary allegations, by a sort of aspiring and venturesome credulity, because they are beyond the reach of ordinary apprehensions; instead of rejecting the imputation of atrocious crimes, and starting at the odiousness and turpitude of guilt, they swallow the accusation with facility of belief.—I trust, Gentlemen, that you will feel that I am reasoning truly with you; you do not think I mean to say, that because the crime is odious; you will not believe the evidence that is called to support it; you would mistake me much, if you thought I entertained the remote possibility of imposing that upon your understandings; I mean no such thing, because if I did, it would imply that the offence would amount to nothing, when the extent of its atrocity was known, and because it was an offence odious and abominable in its nature, and most necessary to punish, that therefore it was not necessary to punish it now; I should reason like a foolish man, and betray a total disregard of you, by supposing you could listen to such argument; but I trust you will see that I am speaking from principles of religion and pure distributive justice, when I say, that the more atrocious a crime, the more it calls for additional deliberation in the juror, to determine whether the charge be true or not;—that is the simple question in this case, and you must see that I have simplified it; the determination of the alternative one way, leads to the inevitable destruction of my client; but it is no departure from my duty, I am taking the best ground I can for him, I must use that ground upon which the accusation places him, and on which he can be defended, and by choosing this, which was adopted in the course of the attack, mutual advantages are derived, which will ultimately give the victory to the strongest side of truth.

The evidence is reducible to narrow limits, it is the evidence of two informers, the testimony of men who
see

see before them the certain alternative of their own death, or the conviction of some other person.—I put it to the jury as a fact, coming almost expressly from the testimony of the witnesses—they fled from the city of *Dublin*, the first of them, whose evidence alone it is material to consider, thought, and he confessed that expressly, that the circumstances under which he had appeared and acted, might, if known, be evidence against him, and be the foundation of taking away his life.

Gentlemen of the Jury, if these were violent times—if I was speaking in an angry climate—if I was speaking before such a man as *Jafferies*, it would scarcely be allowed me to speak of an informer with any other language than that of reverence.—It marks the political climate, when the advocate of the accused ventures what this day I venture, because the advocate should at every peril, and at all hazards, support the defence of his client; but here there is neither danger nor peril in the performance of that duty, and therefore I say it marks the times, when the advocate can speak in the presence, though, under the correction of the Court, of informers, what he really thinks; a man who has been an accomplice may feel a contrition for what he has done.—I am not addressing merely those who may be compelled to participate in any matter of atrocity, but those who, in the course of their lives, may be betrayed into inadvertencies of which they afterwards repent—they may come forward and make atonement, by a discovery of their guilty accomplices; God forbid that criminals of that description should not derive the advantages which may be expected from the sincerity of contrition.—You, Gentlemen, will feel, and the Bench will feel, that I am stating this matter truly, and according to the most correct established authority; but, when I say, that an informer may be received in Court, and give such evidence as a jury may believe, yet, I say, it has been the characteristic of all times, and is now established by the concurrent opinion of all Judges, in determining upon the credit of an accomplice, that he must be a credible witness; and in determining upon that credit, it must strike you all as a preliminary consideration, that he who has been guilty of so foul an offence, must possess a heart totally deprived of all social feeling.

feeling, insensible of social duty, affection, or moral obligation. Shew me the man who has embued his hands in blood—he never felt the influence of moral virtue.—The crimes committed upon the occasion which has given rise to the present enquiry, are not the infirmities which spring from ordinary dispositions, but they are acts which flow from a desperate and depraved source; and the man whose heart yielded such a stream, cannot be incapable of committing another murder by his testimony.—I will carry this position further, and I will say, that the man, who for the purpose of atchieving any object, could steep his hands in the blood of a fellow-creature, will not hesitate, when he speculates upon the competition, between the ruin of another and his own safety.—Those men, who in sad times shew the efficacy of their execution by oath, thrive only in the heat of the season.—In a succeeding period, and at no long interval, those who nourished them into life, and prompted them into action, vented indignation against them, and lamented the consequences of their own conduct.—See the example of *Titus Oates*, who was at one time looked upon as a prophet and the saviour of the country—and sorry am I to say, that he should live upon record, an odious instance of an informer, living quietly till his death, and a pensioner of the very government who were convinced of his contemptibility.—I cannot admonish you by any event that is in the womb of futurity, and therefore it is, that I call upon you to take notice, and warning from former times, in order to save you from the sad necessity of leaving you to a future day to look upon your own past transactions with sorrow, however well intended they might be.—At the same time, I am far from entertaining a thought, that you will not discharge your duty with humanity as well as with justice.

Gentlemen, I have mentioned the character of those two witnesses—I have considered upon their credit—I have had occasions of estimating the general credit of informers—I heard the testimony of these men before, and I have thought of them since:—It is possible, that what they say is true, but there are so many points of view, in which it is possible, that what they say is false, that I would not hazard a conviction upon it.—You are,
from

from your class of life, as capable as I am of saying, whether what I suggest is well or ill founded—You can determine, whether it is merely the effusion of a weak or warm mind—whether it is nothing but the interested language of a man speaking as an advocate in defence of his client—not saying what he thinks, but whatever he can upon the occasion—you will judge whether I can disdain a pitiful resource of that kind.—I am not a witness for myself—it is for you to determine and to ask these questions.—The Counsel who speaks, cannot argue against the man he defends—the court would not suffer him to attempt it—he would be infamous if he did.—But if any topic by which he may be defended, may occur to the Counsel, the defence is not to be rejected, because it has been suggested by the Advocate.—We should recollect, that he is a fellow-creature, and actuated by the common spirit of humanity, and when we are sworn to convict according to the evidence, the Advocate is a fellow-labourer with the Jury, who is a mere authoritative Advocate, than the Advocate for the prisoner; and he should recollect, that he is addressing a Court, who are auxiliaries to the prisoner, and the jury, who are fellow-christians and fellow-subjects with him. Whatever, therefore, comes from a man labouring in the same course, should not be rejected, because it comes from a man clothed with that character.—Lay then your hands upon your hearts, and say—“I cannot feel that I can bring myself to convict a man, charged with so grievous a crime as High Treason, upon the single uncorroborated evidence of mere common informers, concerned in the transaction by their own confession, and nothing to excuse them, but their own declaration, that they were compelled.”

Gentlemen, that I am stating this fairly to you, I hope will be acknowledged by the able and eloquent gentleman who is to follow me.—I know his disposition to be too proud, and his understanding too comprehensive, to deny the truth of any abstract proposition, any principle of policy, or general example, that ought to have weight with a Jury, in the discharge of their duty—I know the same would be said by the Bench, if I carried the topic further than is consistent with the usual practice.

Gentlemen,

Gentlemen, I have very little more to trouble you with; you must all be aware, that proof of a negative is almost impossible.—If any person would swear, that you were now in your own habitations, the only way in which it could be disproved, would be to shew, that you were here. I understand, that both the prisoners have some evidence of that sort.—If it became necessary for me to shew, where I had been upon a particular day, ten days or a fortnight back, it would be extremely difficult to produce a number of concurrent witnesses to the fact.—I heard a witness asked, during these trials, where he had dined the day before—he told it—but upon being asked, where he had dined the day before that, he could not tell—so I could not tell where I had dined ten days ago, and therefore I would expose myself to suspicion, if I produced not a number of witnesses to the fact where I was. It is not a crowd of witnesses that will save a man;—a consistent credible witness, shewing that he was not in the place where the crime was committed, by proving that he was in another, is sufficient.—When the prisoners were taken, they were questioned as to their conduct upon the night of the 23d of *July*—they must have heard of the abominable transactions of that night, and it was natural for them to sift their own memory, and to try and find out other persons, who were with them—that has been done:—A man whose life is endangered by an accusation, cannot be idle even in a prison—he is pressing upon his friends, and soliciting enquiry.—I need not tell the Court, because they know as well as I do, that Counsel cannot always rest upon their instructions as to the dispositions of witnesses in these cases, and therefore it is not requisite to state their evidence with any extraordinary degree of reliance upon it; and it is more candid to the Court, and the Jury, rather to give them an outline, than to go into any detail.

Gentlemen, I expect that the witnesses will prove that *Killen* was in another place, and not in the place alleged—they will be strongly entitled to belief.—As the evidence has been communicated to me, I shall feel myself much deceived, if it does not appear to be as strong evidence as the circumstances of the man could give you reason to expect.—You will be confirmed in this

opinion by the Court, that where evidence is extremely difficult to be had, there evidence of less cogency is received—So reputation is evidence in cases of marriage and of the birth of children.—The same principle applies, when a man is called upon to shew where he was at a particular time, slighter degrees of evidence are admissible.

It does not strike me, that the evidence which I have for *M'Cann*, is equally strong with the evidence to be produced on behalf of *Killen*, but it is equally favourable. If it should not appear so decisively strong, as for the other, I know the candour of the learned Counsel will admit, that if the evidence produced by *Killen* be sufficient to repel the evidence adduced against him, it equally repels it as against the other prisoner also; because, if the informer be effectually contradicted in his allegation against one prisoner, it clearly follows, that he does not deserve your belief, and his evidence must fall to the ground as against the other prisoner, even though the latter should not go into any defence at all.

I think I have heard two of the Judges who now preside, state this principle of law, which I take to be universal, and beyond the power of contradiction, that if a witness shall depose an intentional falsehood, in any one respect, he must be rejected *in toto*, and is not entitled to the smallest degree of belief; and therefore I am warranted in saying, that though the evidence for one of the prisoners may not be so strong as the evidence for the other, yet the evidence for the crown being shewn to be unworthy of belief, it is an universal discredit, and is a shield for every man, who may be attacked by the same testimony.

I feel that my heart is bearing testimony to that fair claim for humanity and moderation suggested by the Counsel for the Crown, because I have not addressed you, Gentlemen, as I have done former juries, upon former occasions—There is no indignation of my heart to be suppressed—no effort is necessary to give force to what I say—These emotions have subsided—thank God! finally subsided—I have no passion of yours to contend with; but speaking with kindness and respect to you and to the Court, and to those whose duty has placed them on the opposite

opposite side, I feel that nothing can be done but with fair argument, unadorned by the trappings of phantastical declamation, uninflamed with idle passion—what has been said, you will judge upon and decide fairly, according to your best discretion, free from any impression but what the evidence shall make.

Gentlemen, the result comes to this: I think the credit of the accomplice and informer is very light indeed, and when his testimony is put into one scale and the life of a fellow creature in another, I cannot but feel, that if justice holds the balance, humanity must turn the scale—you ought to find a verdict for the accused—not because you are perfectly convinced of his innocence; because that is not necessary—but because you are not satisfied of his guilt beyond the reach or possibility of doubt. You are not called upon to say, that you believe him innocent—but that it is possible he may not be guilty—giving a negative testimony as to his guilt, not affirming his innocence—You will not give birth to an odious race of informers—you will not determine the case with the same indifference as you would a question of goods sold and delivered; but recollecting that you are standing in a great situation, with a view to public policy and constitutional law, you will say, that the evidence is weak, of evil example, of dangerous encouragement—If you have a suspicion upon your minds, you should not convict—I do not say you have; but I advise you to recollect this maxim of the law, that it is better 99 guilty persons should escape, than that an innocent man should be consigned to the fate which is the event of a conviction—I pray to God to enlighten your minds and give you courage to pronounce a verdict, resisting any prejudice which may stand between you and the truth of the case, and that you will give a verdict in favour of the Prisoners, if the evidence against them does not bear so irresistibly upon you, that no suggestions of justice or humanity can prevent you from dooming them to an awful and dreadful fate.

Margaret

Margaret Codd, examined by Mr. CURRAN.

Q. Are you a married woman?

A. Yes.

Q. Where do you live?

A. In *Thomas-street*.

Q. Did you live there on the 23d of *July* last?

A. Yes, Sir.

Q. Had you lived there before that time?

A. Yes, these eight or nine years.

Q. Do you remember the evening of the 23d of *July*?

A. I do perfectly.

Q. Do you know the prisoner, *John Killen*?

A. I do.

Q. How long have you known him?

A. Eight or nine years.

Q. How near do you live to him?

A. In the house over his cellar.

Q. Are you a lodger in the house, or an owner of the house?

A. A lodger.

Q. What business does your husband follow?

A. None, he lives on the interest of his money.

Q. Do you remember to have seen *John Killen* on the evening of the 23d of *July*?

A. I did.

Q. Are you positive as to that?

A. I am.

Q. At what hour did you see him?

A. I saw him several times in the course of the day.

Q. Did you see him in the evening of that day?

A. I did.

Q. At what hour?

A. To the best of my recollection, I saw him at six, and afterwards in the course of the evening; it is usual, if he has not business, to come to us.

Q. Where did you see him?

A. At the cellar, just under the house.

Q. You said you saw him after six o'clock?

A. I did.

Q. How soon?

A. In

A. In the course of half-an-hour.

Q. Where?

A. Down in the cellar attending his lodgers at their dinner or supper.

Q. What was the latest hour at which you saw him that evening?

A. I saw him between eight and nine o'clock, as I think; I went down to the cellar, I deal with him, I went down between eight and nine o'clock, I staid a while talking to his wife, he was attending his lodgers; during the time I was there, there was a noise in the street.

Q. (By the Court. How long were you there?

A. I suppose a quarter of an hour.)

Q. During the time you were there you say, there was a noise in the street; can you take upon you to say what it was that was the cause of the noise?

A. I did not know.

Q. (By the Court. Have you heard since?

A. Yes, my Lord.)

Q. What did you hear?

A. That some people were assembled in a riotous manner, called United-men.

Q. How long did you remain in the cellar after you heard the noise?

A. Till seven or eight the next morning; he shut the door, and would not let us out.

Q. Did all the people remain in the cellar as well as you?

A. Every creature that was there remained the whole night except one man.

Q. Did you go to bed in the cellar that night?

A. The place was so crowded with lodgers, that I was obliged to lie in the settle-bed with the maid, but did not rest the whole night.

Q. I think you said he secured the door; did you see him?

A. I did, Sir,

Q. Did he remain within, or was it secured by locking it on the outside?

A. He

A. He remained within the whole night, and secured it by bolting it immediately.

Q. (By the Jury. At what hour did he secure the door?

A. It was after nine o'clock.

Q. Were you afraid to go up stairs to your own lodging?

A. He would not open the door, and we heard some shots, and we remained perfectly satisfied, not knowing what was the matter.)

Mr. MACNALLY. Do you say this, that in consequence of the shots you heard, you remained there the whole night for safety, and that the prisoner was there the whole night?

32 A. I solemnly protest it.

Cross-examined by the SOLICITOR GENERAL.

Q. You and your husband lodged in the house adjoining the cellar?

A. No, Sir, my husband lives in the country.

Q. What family have you?

A. Two children.

Q. You are a lodger in the house?

A. Yes.

Q. You were often in the cellar that evening?

A. I was once in the evening, but several times in the day; I deal with the man, and when any thing is wanted I go for it.

Q. You were there at six in the evening?

A. No, but I saw him at the door at six.

Q. You were talking with him?

A. Yes.

Q. Of what would happen?

A. No, I knew of no such thing.

Q. At nine o'clock you went down to the cellar?

A. No, it was between eight and nine.

Q. Then it is probable it was half past eight?

A. I cannot say.

Q. What was it you went for?

A. A candle, I think.

Q. To get it lighted?

A. No.

A. No.

Q. To purchase it?

A. Yes.

Q. And you intended to return with it?

A. Yes.

Q. And you left your children behind you?

A. No, they are in the country at nurse.

Q. And your husband is in the country?

A. Yes.

Q. What employment is he of?

A. No employment, he lives on the interest of his money.

Q. Where was he that night?

A. He has not been in *Dublin* these six months.

Q. Where does he live?

A. In the country, in a place called *Rathdrum*.

Q. Where are the children?

A. With him.

Q. And you remain in *Dublin* by yourself?

A. I do not know what you mean by that; I have never been in the country.

Q. You remain to enjoy the pleasures of a town life?

A. No such thing.

Q. How long have you been away from your husband?

A. He had been foolish in regard of his property, and a gentleman, who had the care of it, sunk what remained for an annuity for his life.

Q. And then you separated?

A. We have not separated.

Q. But you left the country?

A. No, I was not there.

Q. Then the children were sent to the country?

A. They never left the nurse who reared them.

Q. What age are they?

A. One is six, and the other four years old.

Q. And they never left the house where they were nursed?

A. They come sometimes to town.

Q. What business did your husband follow before this arrangement of his property?

A. He did not follow any; he was not fit for business.

Q. And

Q. And when he retired to the country you remained in town?

A. Yes.

Q. Where?

A. At the house of Mr. Smith.

Q. Adjoining to the prisoner's cellar?

A. Yes.

Q. And in the mean time you now and then see your friends?

A. I see them and hear from them.

Q. Does any friend live with you?

A. No.

Q. When your children come to town, do they see you?

A. They do.

Q. Have you any rooms for reception?

A. I have no rooms for reception.

Q. What apartments have you?

A. I have one apartment streetwards.

Q. That answers for all purposes, for breakfast and dinner?

A. I seldom dine at home.

Q. Do you not breakfast at home?

A. I have acquaintances with whom I breakfast.

Q. Do you breakfast in this gentleman's cellar?

A. No, Sir.

Q. You sometimes breakfast and dine in your own room however?

A. Yes.

Q. And sleep there?

A. Yes.

Q. You never sleep out?

A. No, Sir.

Q. Are you very intimate with the mistress of the cellar?

A. Yes.

Q. She is called "the Dirty Cook?"

A. She is called so by the neighbours.

Q. And the prisoner is distinguished as the husband of the Dirty Cook?

A. If it be so it is so.

Q. Does he always live there?

A. Yes, he did.

Q. You

Q. You live in *Smith's* house?

A. Yes.

Q. What part?

A. In the upper part.

Q. You remained a few minutes in the cellar before you thought of returning?

A. Yes.

Q. Then some noise happened?

A. Yes.

Q. It was pretty clear then, you could see about you without a candle?

A. Yes.

Q. You wanted the candle, I suppose, to read?

A. I generally employ myself at work.

Q. Did you not wait to hear what the noise was?

A. No, there was not much noise at that time, it was down lower in *Thomas-street*.

Q. You had a suspicion of a disturbance that night?

A. Not the least.

Q. You had been talking to the man from the window?

A. No, I was sitting at the door.

Q. You saw nothing unusual at that time, every thing was quiet?

A. It was.

Q. But when the alarm came the cellar door was shut immediately?

A. It was.

Q. Did you ever enquire what the noise was?

A. No.

Q. Did any body go out?

A. There did, one man.

Q. What was his name?

A. *Knight*, a pensioner; he said he was not afraid; *Killen* said he should not go out, were it to save his life, he did not wish to open the door; but the man insisted upon going, and he let him out, but *Killen* and all the rest remained.

Q. What time did he go out?

A. It was not ten o'clock; I cannot be particular to the hour.

Q. Was the firing over?

A. I cannot say.

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Q. After

Q. After the shots the noise was very soon over

A. Yes.

Q. It was all over by ten o'clock?

A. I cannot say; the moment the noise was heard the door was closed, and no one went out afterwards but the pensioner.

Q. You knew the other persons who were in the cellar that night?

A. I cannot say; they were strangers; I passed the night unpleasantly.

Q. Who were there?

A. Three pensioners in all, *Knight, Moore, and Crosby.*

Q. *Moore* and *Crosby* remained there?

A. They lay there that night.

Q. Is it their usual residence?

A. It is of one of them; the other was only for a short time, he had come to town, as he told me.

Q. When did he tell you that, was it this day?

A. No.

Q. When was it, was it before that time?

A. Yes.

Q. (*By the Court.* Was it before the 23d?

A. Yes.)

Q. What is that man's name?

A. *Moore*; I knew the man to lodge there before, because I saw him there twice; he did not tell me he lodged there, but I saw him there twice.

Q. Did you not tell me he said he lodged there?

A. I heard him say, that whenever he came to town he lodged there, because he knew the woman many years.

Q. When did he say that, was it before the 23d?

A. He had no occasion to tell me, because I knew it.

Q. But he did tell you?

A. He did.

Q. You never saw him since that night?

A. I have every day since.

Q. Where?

A. In the same place; he has remained there ever since.

Q. He

Q. He is an old acquaintance of yours ?

A. He is no acquaintance of mine.

Q. How came you to see him so often ?

A. If I was not blind I could not but see him.

Q. You have talked to him ?

A. I have, but not about this business.

Q. How came it that he told you where he lodged ?

A. I heard him say it to a man in the cellar.

Q. When was it ?

A. I cannot say.

Q. It was before the 23d of July ?

A. I cannot say exactly.

Q. Then you are ignorant whether it was before or after ?

A. I cannot say.

Q. You never thought of going up to your own room that night ?

A. I did very often.

Q. How far had you to go ?

A. To the door of the house.

Q. And then up stairs ?

A. Yes.

Q. Would you not have been very happy to get up to your own apartment from that uncomfortable place ?

A. Yes, Sir.

Q. But he refused to let any person out from apprehension ?

A. He did.

Q. Was the pensioner dressed in his uniform clothes ?

A. He was.

Q. And could not you slip out at the time he got out, and get in at the door ?

A. No, I was afraid the firing was going on.

Q. Then the firing was going on, and the noise was going on, at that time ?

A. It was.

Q. You told me he did not go out till after ten o'clock ?

A. I cannot say as to the hour ; there was no watch or clock in the place.

Q. But you said the firing was over ?

A. I believe so.

Q. Then if the firing was over, and the street quiet, why did you not go up to your own room ?

A. I

A. I was afraid.

Q. And you thought you would be safe in the cellar?

A. I thought I would be safe in any place.

Q. And therefore you remained in the cellar?

A. I was afraid.

Q. You slept with the servant maid that night?

A. I did not sleep at all.

Q. You got into the settle-bed with her?

A. I did.

Q. How many persons were there?

A. The three pensioners.

Q. And you?

A. Yes.

Q. And the Dirty Cook and her husband?

A. Yes.

Q. (*By the Court.* Were there any other people there?)

A. There were.)

Q. How many apartments were there?

A. There is the front cellar and the back one.

Q. And no one of all the persons there was turned out but the old pensioner?

A. Not one.

Q. (*By the Jury.* Was it day-light or dark when the cellar door was locked?)

A. It was.

Q. Which was it?

A. The candles were light.

Q. Was it dark or was it light?

A. It was dark.

Q. Was the prisoner out shortly before the door was locked?

A. No, Sir.)

Q. You say it was after eight when you went down, how long were you there before the door was shut?

A. Not very long, I cannot be positive to the moment.

Q. But the prisoner, you say, did not quit the cellar from the time you went till next morning?

A. No, Sir.

Prisoner.

Prisoner. (Let her be asked if she knows how many beds are let out for hire?)

A. Five beds in the inside place.)

Q. (*By the Court.* How long is it since you saw your husband?)

A. Six months.

Q. Did he come to town, or did you go to him?

A. He came to receive his money.

Q. He did not come to see you, but to receive his money?

A. He is paid every half-year.

Q. But if he had not the money to receive, would he come to see you?

A. I do not know, I suppose so.

Q. Was he at your place when he received the money?

A. He was.

Q. And lodged with you?

A. No, Sir.

Q. I suppose you knew where he lodged when he came to town to receive the money?

A. The night he came to town he lay in *Killen's* place, and remained some time till the money was paid him, he had to wait a few days for it.

Q. How did it happen he did not sleep with you, your place was as convenient as *Killen's*?

A. It has happened so, that it was not the case these some years.)

Q. (*By the Jury.* Does your husband share any of the money with you?)

A. He does.

Q. You work a good deal?

A. I do.

Q. Do you sleep in a front or a back room?

A. In a back room.

Q. You saw *Moore* very often?

A. I did.

Q. How did it happen that you conversed with those people in the street?

A. I have seen them very often, and have seen *Moore* since this business.

Q. How

Q. How many years is it since your husband ceased to cohabit with you ?

A. It is hard to answer these questions; it is near four years.

Q. And how old is your youngest child ?

A. It is near four years old.

Q. (*By the Court.* Are your parents living ?

A. No.)

Q. (*By the Jury.* It was not more than half-past eight when the door was shut, and you say it was dark ?

A. It was dark, it was between eight and nine; I cannot speak to the hour.)

James Knight, examined by Mr. CURRAN.

Q. What are you ?

A. I turn a wheel for a cutler, Mr. Read of Parliament-street.

Q. Are you a pensioner ?

A. I am.

Q. You have been a soldier ?

A. Yes.

Q. Do you remember the 23d of July ?

A. I do.

Q. Do you know the prisoner Killen ?

A. I do.

Q. Where did he live ?

A. In a cellar at the corner of James's-street.

Q. Did you see him in the evening of that day ?

A. I saw him in his own place when I went in.

Q. What time in the evening ?

A. I cannot rightly tell; it was, I believe, about nine.

Q. Was it before the disturbance ?

A. There was no disturbance when I came.

Q. (*By the Jury.* Did you see any particular assemblage of people at that time ?

A. I took no notice of any.)

Q. What happened while you were in the cellar ?

A. I

A. I called for my beer, and my quarter of bread and meat, and when the last bit of it was eat, this woman of the name of Gold, ran down and said, there was a noise in the street.

Q. (By the Court.) What time was that?

A. Half past nine.

Q. After she came down what happened?

A. Upon her saying there was a noise, the prisoner shut the door; I said, I must get out to go home; he said, it was dangerous, and I made a reply, I am an old soldier, I'm not afraid to go out, therefore let me go out; he insisted upon my staying, but I would not, and he opened the door and let me out, and shut the door after me.

Q. From the time that you went into the cellar until you left it, what was he doing?

A. He was sitting on the settle, near the door, as usual, with his big wife.

Cross-examined by Mr. PLUNKETT.

Q. What time do you say you went to the prisoners?

A. Just about nine.

Q. Where did you go from?

A. From work.

Q. Is it in *Parliament-street* you work?

A. It is; there I turn a wheel.

Q. And you remained there till nine o'clock?

A. We leave off work about eight, and sometimes go and take a pot.

Q. Did you take any that night?

A. I went the straight way, only I met a man in *Fishamble-street*, and we took share of two pots of porter.

Q. What is his name?

A. Macklin.

Q. And then you went straight home?

A. Yes.

Q. You saw nothing extraordinary?

A. Nothing.

Q. At a quarter after eight you left *Parliament-street*, and you stopped in *Fishamble-street*, and afterwards walked through *Thomas-street*, and found all quiet?

A. I

A. I did.

Q. Whom did you find at Killen's?

A. I found himself and wife, and Moore and a little girl.

Q. Were there any other people there?

A. I cannot answer for strangers.

Q. Were there any there; I don't ask their names?

A. I can't say whether there were any in the beds.

Q. Were there any other up?

A. Not that I saw.

Q. You supped there?

A. I did.

Q. Did any other persons sup there?

A. There were people eating there, strangers that I did not know.

Q. Did you not say there might be some also who might be in bed; I ask you now was there any other persons supping there besides yourself?

A. I do not know who they were.

Q. But were there any, whether you knew them or not?

A. I believe there were.

Q. How many?

A. Between three and four.

Q. Three and four, what do you mean?

A. I believe three.

Q. Did you know any of them?

A. Only Moore.

Q. Killen was not attending them?

A. No, no one but the girl.

Q. Do you know Mrs. Codd?

A. Yes.

Q. How long after you arrived did she come in?

A. She was there when I went in.

Q. You did not stop very long at Fishamble-street?

A. No.

Q. How long might you have been before you got from Parliament-street to Killen's?

A. I could walk it in a quarter of an hour.

Q. How long were you drinking the porter?

A. About ten minutes.

Q. Then you were near half-an-hour before you got to Killen's?

A. I

A. I cannot say, I suppose it was.

Q. Then about a quarter before nine you got there?

A. I cannot be exact.

Q. Was it dark or light when you arrived there?

A. It was darkish, it was light enough to see any body in the street.

Q. Was it light enough to see in the cellar?

A. It was.

Q. You ordered supper?

A. I did.

Q. Were you able to eat by day-light?

A. There was a candle lighted.

Q. Did you say any thing about disturbances?

A. No.

Q. Did any of those in the cellar know any thing about it?

A. No.

Q. How long were you eating your supper?

A. I could not be long, I suppose a quarter of an hour.

Q. How soon after you went in did you hear of the disturbance?

A. I cannot tell how long.

Q. You found Mrs. Codd there and you left her there?

A. She went out and came back, as I believe; she came back again because there was some noise in the street.

Q. So she left her house and went into the cellar because there was a noise?

A. I do not know where her house was.

Q. But it was a natural thing to leave her house, because there was a noise, and go to a cellar?

A. I cannot be answerable for that.

Q. What was done when the alarm was given?

A. Killen then went and shut the door, and said, "woman do not make any noise in my place".

Q. To whom did he say that?

A. To the woman.

Q. And so to prevent her making a noise he kept her in; what noise did she speak of?

A. She said they were killing one another down Thomas-street.

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Q. Did

Q. Did she ask him for a candle to go out and fight among the people?

A. I cannot say whether she did or not—I eat my supper.

Q. Did you ask what was the matter?

A. I did not mind her—He said they were killing one another.

Q. Did Killen enquire what was the matter?

A. No.

Q. Did his wife?

A. No, not that I heard.

Q. Did any of the people at supper?

A. No.

Q. You remained quietly at your supper?

A. We did.

Q. (By a Juror. Where did you go after your supper?

A. To *Irvine-street*.

Q. Did you hear of any disturbance on your way?

A. No, but I met the army.

Q. Are you certain Mrs. Codd made use of the expression, that the people were killing one another?

A. She did.

Q. Were there any shots fired before you went out?

A. No, but after I got out I heard shots towards the *Market-house*.

Q. When you desired Killen to open the door, what did you say to him?

A. I said, I was an old soldier, that I was not afraid, and no body would hurt me.)

Patrick Moore, examined by Mr. MAC NALLY.

Q. You have served the Crown?

A. I have.

Q. You were in the *East India Company's* service?

A. I was.

Q. Where do you live?

A. In *Philipstown*.

Q. How do you subsist?

A. By my labour and my pension.

Q. From whom have you that pension?

A. From the Honourable *East India Company*.

Q. Were

Q. Were you in *Dublin* on the 23d of *July*?

A. I was, I came on that evening.

Q. What business brought you to town that evening?

A. I was working in a quarry for Mr. *Tighe* on the *Naas* road.

Q. And you came into town every night?

A. No, Sir, I came on that evening.

Q. Did you see the prisoner, *Killen*, on that evening?

A. I did.

Q. Which is he?

A. There he is—(pointing to him).

Q. Where did you see him, and at what hour?

A. In or about seven o'clock, I saw him first at his place.

Q. What business brought you to his cellar?

A. I came into town to buy a shirt for my little boy.

Q. What brought you to the cellar?

A. To take up a lodging and secure my bed.

Q. Did you remain in the cellar all night?

A. I did, Sir.

Q. Did you see the prisoner?

A. I did.

Q. Down to what time did you see him?

A. It was twelve o'clock when the people went to rest.

Q. Do you know what it was kept them from going to rest before that hour?

A. There were a good many women with nursed children belonging to the work-house, and the children were very troublesome with their noise; there were three women with children, and they were very cross; there was one woman and her husband, they had two children who were very troublesome; and there was another woman with a child, and another man and a woman with a child, but I believe that was their own.

Q. Can you say whether the prisoner was out from the time you were there?

A. I did not see him go out from the time I went in till next morning.

Q. Did you hear any noise that night?

A. I did.

Q. Where were you?

A. I

A. I was sitting below at the table in the cellar, when I first heard the noise.

Q. What kind of noise was it?

A. The first noise we heard was shots;—somebody came to the cellar-door and said, they were killing one another down the street, and Killen got up, I thought he was going out, but he shut the door;—I got up from where I was eating my supper, myself and my son, and went to the door, and he gave me a slap in the face for attempting to go to the door.

Q. Did he fasten the door?

A. He did.

Q. After he fastened the door did he go out that night?

A. On my oath he did not go out; one of the men was going out, and Killen desired him not to go out; he said, he had not far to go; Killen said, you may get hurted, and do not go out, as it is troublesome.

Q. Did that man go out?

A. He said he was not afraid—that he would not be hurted, for that he had not far to go, and was a soldier—and Killen said, as he insisted, he would let him out; and he half-opened the door, and let him out, and shut the door after him.

Q. And you remained till morning?

A. I did.

Cross-examined by Mr. MAYNE.

Q. You wrought at a quarry at that time?

A. I did.

Q. You are able to work abroad in a quarry?

A. I am.

Q. How far from town was it where you worked?

A. In or about three miles.

Q. What family have you?

A. A wife and four children.

Q. Do they live at the quarry?

A. No, but at *Philipsdown*, all except one boy who is with me.

Q. You brought him with you?

A. Yes.

Q. And you slept at the quarry?

A. No,

A. No, but at *Laurence Tighe's*, at *Blue-bell*.

Q. How far from town?

A. Two miles.

Q. You always slept there but on the 23^d of July?

A. No, most commonly on a *Saturday* night we came to town.

Q. Then you came from the quarry and slept in town?

A. We were ne'er a *Saturday* night at *Mr. Tighe's* before.

Q. Then you were only there for a week before the 23^d?

A. Yes.

Q. And within two miles of your lodging at *Mr. Laurence Tighe's* you paid for a lodging in *Thomas Aspet*?

A. Yes.

Q. You said you came in to buy a shirt; did you buy it?

A. I did not.

Q. Why not?

A. I had not much time.

Q. Had you not as much time as you expected?

A. I did not expect to buy it that night but the next morning.

Q. So you came in upon a *Saturday* night for the purpose of buying a shirt on the next morning?

A. It was not the only reason; there was no milk convenient to us in the place, and most commonly all the men were provided of their own.

Q. Then it was not the shirt that brought you to town?

A. It was the chief business.

Q. And you left the lodging, which you had, where you worked, and took a new lodging in town?

A. There was no place between town and the *Blue-bell* to buy any thing.

Q. Did you get milk at *Killen's*?

A. Yes.

Q. Then you supped upon milk?

A. Not I, as long as there was beer and bacon I would not.

Q. You went to bed at twelve o'clock?

A. I cannot exactly say.

Q. Was there a clock there ?

A. There was not that I saw.

Q. But it might be more than twelve ?

A. I am pretty sensible it could not be much more.

Q. At what time did you get your supper ?

A. I was eating my supper when the firing began.

Q. Was not that the firing of the army ?

A. Upon my soul I cannot tell ; and I'll tell you why, at the time the shots began I thought it was the army and the mob had fallen out.

Q. That was some hours after you arrived ?

A. It was a good while ; I sat chatting with a man who came from *Portarlington*.

Q. How long had you come in before you got your supper ?

A. Two hours.

Q. What time did you dine ?

A. One o'clock.

Q. And you and your son came into town and did not eat for two hours after ?

A. We did not.

Q. How old is your son ?

A. Eighteen, going on nineteen.

Q. Is he here ?

A. No.

Q. Is he gone to *Philipstown* ?

A. He is.

Q. Why did you not get your supper before ?

A. There were so many women and children and their husbands that we could not get it.

Q. There were a good many going in and out ?

A. There were.

Q. Did you hear any guess or suspicion of this business before the shots were fired ?

A. I did not, and would not say if I did.

Q. What road did you come in by ?

A. From Mr. *Tighe's* to the Canal, and from that to town.

Q. Was not that road crowded with people coming into town and for this business ?

A. I did not see any thing of the kind till I came to the Basin, where I saw a number of people.

Q. Did you enquire of them ?

A. No,

A. No, I did not.

Q. You heard nothing then till you heard the firing?

A. No.

Q. Who was it first told the people in the cellar that there was firing in the street?

A. I cannot say whether it was man or woman, I believe it was a girl who put down her head and went away.

Q. Then she did not come into the cellar?

A. She did not.

Q. And this was when you were at supper and two hours after you arrived in town?

A. It was.

Q. How often have you been at Killen's within these few days past?

A. Not often.

Q. Have you not been to visit him and fetch him victuals?

A. I have.

Q. Where have you been working this some time past?

A. I have not been working any where.

Q. (*By the Court.* The person who gave the information down to the cellar that the people were killing one another was a girl?)

A. It was as well as I could guess.

Q. And that person who gave that information, did not come down but went away?

A. She did not come down.

Q. Did any person come down who gave information of it?

A. No, there did not.)

Q. You have been employed six days in carrying provision to the Prisoner?

A. No, not so long.

Q. How often?

A. Three or four different days.

Q. And you did not work these days?

A. No.

Q. You were at Killen's from 7 o'Clock?

A. Yes.

Q. Were you in town any day for some time before the 23d of July?

A. No, not from the Sunday before.

Q. Do

Q. Do you know the person who gave the information at the door of the cellar?

A. I do not know, I did not see her at the time I heard a voice and it was a girl or a woman.

Q. Do you know any person who lodges in the house over the cellar?

A. I do.

Q. Whom?

A. Mrs. Codd.

Q. Was she the person who gave the information?

A. I cannot say.

Q. She was not in the cellar that night?

A. She was, for she received the money from the people who were getting their suppers there before they would go to bed.

Q. Did she sleep there afterwards?

A. She went to bed afterwards, as I suppose, with the maid; for she was there in the morning.

Mr. PLUNKETT. Did Mrs. Codd go out from the time you went there?

A. She was not there at the time that I went in.

Q. (By a Juror. Was she locked in by Killen?

A. She was.)

Q. (By the Court. At what time before that did you see her?

A. Before that day I did not see her for a week.)

Q. Does Mrs. Codd usually transact business for Killen?

A. She does by times, and does it usually since that day.

Q. Where is your son?

A. He is gone home.

Q. How long is it since you saw him?

A. On Sunday last.

Q. Did he stay with you the night of the 23d?

A. He did.

Q. Did he sup there?

A. He did, and one Kelly, who was drunk, as I came into town and I brought him there.

Q. (By a Juror. How long is it since you knew Killen?

A. These two or three and twenty years.

A. What

Q. What countryman is Killen, is he a *Philippstown* man?

A. No, he was born and bred hard by *Kinnegad*,

Q. *By the Counsel for the Crown.* Were you in Court when the other witnesses were examined?

A. No.

Q. Where were you?

A. I was outside.

James Crosbie examined by Mr. CURRAN.

Q. Were you at the Prisoner's cellar upon the 23^d of July?

A. I was.

Q. Whom did you see there?

A. The Prisoner and his wife and another girl.

Q. Did you see any strangers there?

A. I do not know, never having been there before.

Q. Did you see any other person there?

A. Not at the present time.

Q. When did you go there?

A. At half past six.

Q. When did you leave it?

A. Next morning at seven.

Q. Did the Prisoner leave the cellar all that time?

A. He did not.

Q. Could he have gone out without you seeing him?

A. He could not.

Q. Did any other persons come in while you were there at supper?

A. There did, several.

Cross-examined by Mr. TOWNSEND.

Q. Where do you live?

A. At *Portarlington*.

Q. When did you arrive in town?

A. Two days before, I came to town with a nurse-child—myself and my wife—to receive payment, and had three days delay.

Q. Are they such bad pay at the Poor-house?

A. No, but my wife was called and her name was mislaid, and we were put off till *Saturday*, and then were

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paid,

paid, and we went through the town buying some things.

Q. Where did you sleep the first night?

A. In another cellar, I cannot say where.

Q. Where did you sleep the next night?

A. At the same place.

Q. Why did you not sleep there the third night?

A. The woman who had the place was put out, and had no bed for me or I would have gone with her, and we took up a lodging at the Prisoner's accidentally.

Q. Who recommended you there?

A. Nobody.

Q. Was you ever there before?

A. No.

Q. Were you ever there since?

A. Yes, last night, and every night since I was summoned.

Q. When you went there at half past six, you saw only the prisoner and wife and girl?

A. Yes.

Q. Did you know any of the people who came in afterwards?

A. I did not at that time.

Q. Did you hear their names?

A. I did—*Patrick Moore*, who came from the same town with me, I had not seen him for 22 years, we fell into conversation at supper, "he asked me, where I was from," I told him from *Portarlinton*—and he asked me, "did I not know him," I said, "he was *Moore* from *Portarlinton*."

Q. You had much conversation?

A. Yes, we had some.

Q. (*By the Court.* Did he remember you?)

A. I suppose so—I was younger than he was.)

Q. How did he find you out?

A. By asking me.

Q. Did you ask him about his family.

A. No.

Q. Did you know any body else?

A. Nobody, but my wife.

Q. Did you hear the name of any other?

A. I did, *Mrs. Cold*.

Q. Did

Q. Did you hear her name since, or did you hear it that evening?

A. I heard it then.

Q. Did you hear any shots?

A. I did, three or four.

Q. Single shots?

A. Yes.

Q. No volleys?

A. No.

Q. At what time did you go to bed?

A. At twelve.

Q. And you heard no volley before that?

A. No, only three or four shots.

Q. What made the Prisoner shut the door?

A. A woman came down to look for a candle and said there was a mob in the street killing one another, he shut the door and put a bar across it.

Q. What was the name of that woman?

A. Mrs. Codd.

Q. And immediately upon her coming down she told this?

A. Yes.

Q. How soon after did you hear the firing?

A. In ten minutes.

Q. How soon after was the door opened?

A. Not till a man went out?

Q. When was that?

A. I can't tell, for I fell into conversation with my wife.

Q. Was there any clock there?

A. No.

Q. Then you had no measure of time?

A. No.

Q. What o'clock was it when the woman came for the candle?

A. I cannot say.

Q. Were any candles lighted at the time?

A. They were.

Q. Was there any child there but yours?

A. No other that I saw.

Q. Is your child a quiet or a cross child?

A. It is cross by turns.

James

James Smith, examined by Mr. MAC NALLY.

Q. Where do you live ?

A. At *James's-gate*.

Q. Do you know the prisoner ?

A. I do.

Q. He is a tenant of yours ?

A. He is.

Q. What is his general character ?

A. A quiet honest man.

Q. What can you say as to his loyalty ?

A. I never heard of his being accused—nor do I believe he could be accused.

Cross-examined by Mr. ATTORNEY GENERAL.

Q. You are a Yeoman ?

A. Yes.

Q. In what corps ?

A. In the *Rotunda* corps, 9th company.

Q. Not in the *Barrack* corps ?

A. No.

Q. How long have you been a Yeoman ?

A. Since 1796.

Q. Have you many lodgers in your house ?

A. A good many.

Q. Do you know Mrs. *Codd* ?

A. I do.

Q. How long did she lodge there ?

A. Herself and her husband lived with me four years before they separated, and since she has been with me three years.

Q. What apartment has she ?

A. A small upper-room backwards.

Q. Her children do not live with her ?

A. No.

Q. Nor her husband ?

A. No.

Q. They reside in the country ?

A. They do, latterly.

Q. And you say she inhabits a room backwards—does it not look into the street ?

A. No, it does not ; but she is generally sitting in one of the front rooms.

Q. A

Q. A genteel woman, you reckon her ?

A. I have no other reason.

Q. She receives visitors and she goes abroad ?

A. She does not receive many at home, but she goes abroad much.

Q. You take care of the morals of the people in your house ?

A. I do, as far as I can.

Q. Mr. Killen's is a genteel place for a woman to visit in the absence of her husband ?

A. I cannot say—I do not understand you.

Q. Is it a genteel place ?

A. I know it is an honest place, but as to its gentility I cannot say.

Q. They admit people promiscuously ?

A. They do.

Q. Men and women, as they come ?

A. They admit none but honest people.

Q. They admit them without enquiry ?

A. They do.

Q. How then can they know their honesty ?

A. I never heard of their having bad people ;—and there are many cellars in *Thomas-street* that do.

Q. How many beds are there in the prisoner's, in the cellar ?

A. I cannot say—three or four.

Q. Were you at home on the night of the 23d of July ?

A. I was not.

Q. Where were you ?

A. I was in *Ring-fend*—I slept there that night.

Q. In whose house ?

A. At one *Coogan's*.

Q. What brought you there ?

A. We intended to have had a boating-party, and I went there for the purpose, when my business was done.

Q. What business do you follow ?

A. A cabinet-maker.

Q. Have you any family ?

A. I have a mother.

Q. Are you married ?

A. No.

Q. At

Q. At what time did you go ?

A. At seven o'clock.

Q. Did you go through *Thomas-street* ?

A. I did.

Q. All was quiet as usual ?

A. Yes.

Q. There was no extraordinary appearance—no gathering of people ?

A. No.

Q. Did you go alone ?

A. No.

Q. Who were with you ?

A. A young man of the name of *Murphy*, from *Bow-bridge*,

Q. Did he sleep at *Ring-fend* ?

A. He did.

Q. Did you meet any other person ?

A. Yes, one *Byrne*, who keeps a cloth-shop in *Francis-street*.

Q. Did he sleep in *Ring-fend* ?

A. He had lodgings there for his health.

Q. When did you hear of the disturbance ?

A. Next morning.

Q. Did you go upon the boating party ?

A. No.

Q. What did you do ?

A. I returned to town.

Q. Did you join your corps ?

A. No.

Q. When did you join it ?

A. When the drum beat to arms.

Q. When was that ?

A. On the *Tuesday* after.

Q. But on *Sunday* you did not join your corps ?

A. No.

Q. Nor on *Monday* ?

A. No.

Q. Nor on the morning of *Tuesday* ?

A. No—When there was a necessity I did.

Q. Were you joined with the *Rotunda* division at that time ?

A. No, nor for six months after the peace.

Q. Then you quit them ?

A. Yes.

A. Yes.

Q. And you joined again on *Tuesday*?

A. Yes.

Q. In what part of the street is your house?

A. Just at the back of the gate.

Q. Have you heard the place described where Lieut. Brady fired the volley?

A. No, Sir.

Q. You have been over the ground since?

A. I went to the *depôt*.

Q. Did you hear where Lt. Brady fired upon the mob?

A. I heard it was at *Dirty-lane*.

Q. Did you hear that a party of the 21st regiment, under Lieut. Brady, fired upon the mob and killed some of them near *James's-gate*?

A. I never heard it.

Q. And you do not believe it?

A. No—I do not say that.

Q. But did you hear of it?

A. No—I heard it was at *Dirty-lane*.

Q. (By the Court. Is the *Rotunda* Division your next corps?)

A. No—But on *Tuesday* night I met a grenadier of the corps, and I joined that corps then.

Q. What corps did he belong to?

A. To the *Canal* corps.)

Prisoner, John Killen.—Did you ever hear of the cause of the separation between *Codd* and his wife?

A. He is insane by times, and broke all the furniture, and did mischief.—He sunk his property for life, and receives a small part, and he gives part of it to her, and she does plain work.)

Q. (By the Counsel for the Crown. You felt compassion for her at the time?)

A. No compassion, one way or other.

Q. (By the Court. Does she leave her children always with this insane man?)

A. I suppose so.)

Q. (By a Juror. You say you belong to the *Rotunda* corps, the 9th company?

A. I

A. I do.

Q. Were you attached to any company?

A. I was.

Q. How long ago?

A. About a month.

Q. What was your cause for quitting one company and going into another in the same corps?

A. I cannot explain it.

Q. To what company were you first attached?

A. The grenadier company.

Q. Did you ever hear that there was a meeting of the privates of the corps, to investigate the conduct of some members of that company.

A. I did.

Q. Did you get notice to withdraw yourself from that company?

A. I did.

Q. (By Mr. MAC NALLY. Are you not now attached to another company of that immaculate corps?

A. I am.)

James M'Evoy examined by Mr. MAC NALLY.

Q. Do you know the Prisoner John Killen?

A. I do.

Q. Do you know his general character?

A. I do.

Q. Have you ever heard his character impeached with respect to his loyalty or honesty?

A. I never have.

... *Witnesses on behalf of John M'Gann.*

Philip Lynch examined by Mr. CURRAN.

Q. Do you belong to any yeomanry corps?

A. Yes, the Sandymount corps.

Q. Do you know Mahaffy?

A. A little—I have been acquainted with him not more than a year.

Q. Are you acquainted with his general character?

A. I could not know his general character, I have heard of him.

Q. Are

Q. Are you able to form an opinion of your own as to his general character in life?

A. I'll tell you, I believe, what I have been summoned for upon this trial.

Mr. BARON DALY:—You are to give evidence of general character, from what you have heard of the man; you are not to tell a particular matter which you may have heard; you are to give the result of your judgment from the character.

Witness. If I can believe——

Mr. BARON DALY. That is not the question.—Can you undertake to say, what is his general character.

Witness. But all things I hear, I am not to believe.

Mr. BARON DALY. You are called to give an opinion upon your oath, whether you know the character of the man, and then whether he is to be believed upon his oath from that knowledge of his character.—Do you know his general character, or not?

A. I heard a good deal of his general character, within less than a year.

Mr. MAC NALLY. Is he deserving of credit upon his oath?

A. I would not believe him.

Cross-examined by Mr. ATTORNEY GENERAL.

Q. Where do you live?

A. In *Ringford*.

Q. You belong to the *Sandymount* corps?

A. Yes.

Q. Pray, how long?

A. Not three weeks.

Q. Were you ever in any corps before?

A. No.

Q. Where did you live during the last rebellion?

A. I was a servant then.

Q. What are you now?

A. A Yeoman.

Q. Have you no other business?

No. 8.

I

A. I

A. I left service and went into business and failed—I put my boy into the *Pigeon-house*, till the times would get better, and I got into a corps, which I will endeavour to live by.

Q. How is your son employed?

A. In the laboratory, making cartridges.

Q. How long is he there?

A. Only a few days.

Q. Where did you live before you went to *Ring-send*?

A. In *Hanbury-lane*.

Q. At what number?

A. No. 22.

Q. Were you ever at *Stradbally*?

A. I was.

Q. How long did you stay there?

A. Only one day—on the next I went to a fair at *Atby*, and from that I went to a fair at *Marybotough*.

Q. Do you know Mr. *Coogan* at *Ring-send*?

A. No.

Q. Who recommended your son to the Laboratory?

A. Captain *Godfrey*.

Q. Who recommended you to him?

A. No person.

Q. How old is your son?

A. Going on ten years old.

Q. What business did you follow in *Hanbury-lane*?

A. I lodged there, and I went to a man of the name of *Kirwan*—I do not know where he lives, some where near *Crossick-alley*, and he sells soft goods, and I went with him upon half-profits.

Q. Had you a shop?

A. No.

Q. You are a hawker?

A. I am.

Q. And you set out with a man you never saw before?

A. I knew the man very well.

Q. With whom did you live in *Dublin*?

A. With Counsellors *Crofton* and *O'Hara*, and several others.

Q. Was it in 1798 you left service?

A. It was since.

Q. What

Q. What did you do then ?

A. I set up in the huxtery business, and not knowing it, I failed.

Q. Then you failed as a pedlar ?

A. Yes, and went with *Kirwan*, and he gave me half-profits, and upon returning to town, I found it disturbed and went into a corps.

Q. That was to protect yourself ?

A. Yes; I offered myself to be a soldier.

Q. Do you know any of the *Liberty* Rangers ?

A. No.

Q. Or of the *Upper-Cross* corps ?

A. No—but I know many of the Yeomen.

Q. (*By the Court.* What do you mean by securing yourself ?

A. I wished to be in the army in some point—I had no property to get into business, and until I got some, I wished to be a yeoman or a soldier to serve his Majesty, when it was necessary.)

Q. When did you offer yourself to the corps ?

A. The very night I was accepted.

Q. When was that ?

A. Not three weeks ago.

Q. Who introduced you ?

A. One *Connor*.

Q. Is that *Martin Connor* ?

A. Yes.

Q. Were you here yesterday ?

A. Not here, but I was in the Court.

Q. Was he here ?

A. He was.

Q. To be examined ?

A. He was in the summons.

Q. Have you ever had any conversation with him as to what passed here, or what was to be done ?

A. I do not believe he knew what was to be said.

Q. Was he not one of the persons whom you heard speaking of *Mahaffey* ?

A. Undoubtedly.

Q. And he is one of the persons upon whose information you form the opinion you gave ?

A. No,

A. No, not upon his alone.

Q. But he is one of the persons ?

A. He is.

Q. You know *Keegan* ?

A. I do not know much of him, but have spoken to him.

Q. Did you meet him in *Patrick-street*, when he took a glass of port and water ?

A. I did.

Q. And you were of the party ?

A. I was.

Q. And that was the time you settled to come here ?

A. I do not know.

Q. But they talked of it ?

A. They did.

Q. And you were here yesterday ?

A. I was.

Q. (*By the Court.* When did you leave *Dublin* with *Kirwan* ?

A. I do not know the day—I was at *Stradbally*, and from that I went to *Atby*, and from that to *Maryborough*, and then I went to *Stradbally* again, when I heard of the disturbance.

Q. How long were you away from *Dublin* ?

A. About a month.

Q. Did you ever travel with him before ?

A. Not in the country, but about town and the *Rock*.

Q. You had been a servant, and afterwards, about a month before the rebellion, you went through the country, into the county of *Kildare*, and the *Queen's* county, with *Kirwan* ?

A. Yes.

John Andrews, examined by Mr. CURRAN.

Q. Do you know the prisoner, *McCann* ?

A. I do.

Q. Did you see him upon the 23d of *July* ?

A. I did.

Q. Where ?

A. -At his house in *Bridgefoot-street*, near *Bonham-street*. I went to his house after paying my men, about a quarter

a quarter before nine o'clock—I staid there some time, about twenty minutes, drinking porter.

Q. What did you see him do?

A. I saw him answering his company, and drawing drink for them.

Q. Did you leave him so employed?

A. The house was pretty thin when I left him;—Mr. *Salter* went out with a pot of porter; I staid fifteen minutes after that, and that is all the notice I took of him.

Cross-examined by Mr. MAYNE.

Q. You are not very exact as to the time you were there?

A. Indeed I am, because I do not think I could be more than half-an-hour from the time I discharged my men till I returned. I did not drink more than a pint of porter, and no punch.

Q. You had no company?

A. No, I went to look for company, but did not meet them.

Q. How far is the prisoner's house from *Benham-street*?

A. It is at the very corner.

Q. And how far is your house from his?

A. It is between that and *Marjbal-lane*, and I have a timber-yard there.

Q. How far is it from *Mafs-lane*?

A. I cannot form a belief—I suppose it is 300 yards, and more.

Q. Were you at home all the night afterwards?

A. I was.

Q. A great deal of mischief was done?

A. There was.

Q. Many murders were committed?

A. I did not hear of them till next morning.

Q. But there were many?

A. I heard Colonel *Browne* was killed there.

Q. And many others?

A. The rest were killed in *Thomas-street*.

Q. And some others in *Dirty-lane*?

A. There were some, as I heard.

Q. Did

Q. Did you not know any thing of the rebellion going on till next morning ?

A. I saw a vast quantity of men and pikes going up and down the lane.

Q. Passing *M'Cann's* door ?

A. I did not see *M'Cann's* door then. I was afraid to look out after that time.

Q. This was after you left *M'Cann's* house ?

A. It was.

Q. The firing did not begin till you got home ?

A. No.

Q. There were not more than the usual number of men at *M'Cann's* ?

A. Not more than usual—There was a number of smiths and workmen from the different places and yards about there.

Q. There was no noise or firing till you got home ?

A. There was a noise in *Thomas-street*, but none in *Dirty-lane*.

Mr. CURRAN. I have to express my humble hope, that your Lordships will not think this examination is right. The fullest scope should be given respecting the character of the prisoner ; but the witness is interrogated as to his own character.

Lord NORBURY. The witness was examined as to the place where the prisoner was.

Mr. MAYNE. I am interrogating him respecting the very facts, which were the subject of his direct examination.

William Salters, examined by Mr. MAC NALLY.

Q. Where do you live ?

A. In *Bonham-street*.

Q. What business do you follow ?

A. A hide and skin broker ; I buy for tanners, *Alderman Hutton*, and others.

Q. Do you belong to any corps ?

A. I do.

Q. What corps ?

A. The *Liberty Rangers*.

Q. How

Q. How long?

A. The week after the rebellion.

Q. Do you recollect the 23d of July?

A. I do, and will ever.

Q. Did you see the prisoner, *M'Cann*, that night?

A. I did.

Q. Where does he live?

A. He keeps an alehouse at the corner of *Bonham-street*.

Q. Near to you?

A. Very near.

Q. Was it at his own house you saw him?

A. In his own house.

Q. At what hour that night was it that you saw him?

A. It was a little after nine, but a few minutes under or over.

Q. What business brought you to his house?

A. My business was, the hearing of the business.

Q. What do you mean by that?

A. I heard by a woman a few minutes before, that there was to be a turn out, and in consequence of hearing it, I went to three acquaintances of my own, and told them what I heard.

Q. How was Mr. *M'Cann* employing himself when you went in?

A. He was employing himself as usual; I called for a pot of porter, and paid him for it, and I returned home, and in 15 minutes after the whole pikemen of my quarter marched by.

Q. Did you see *M'Cann* again that night?

A. No, I thought better of it than to go out.

Q. How long have you known *M'Cann*?

A. Seven years.

Q. Can you speak to the loyalty of the man?

A. I never heard but of his being an honest, industrious man; but as to his loyalty I know nothing of it.

Q. Have you heard any thing said against it?

A. No.

Cross-examined by Mr. SOLICITOR GENERAL.

Q. This was at half after nine o'clock?

A. No, it was not so late.

Q. You

Q. You saw no appearance of violence?

A. No.

Q. But you were a little surprized at the crowd of people from what the woman told you, and you got home?

A. I did.

Q. And some time after that the noise began?

A. In 15 minutes after; then I saw the men, and after that I heard a shot.

Q. You know the prisoner's house?

A. I do.

Q. He has a servant?

A. He has, I believe, and a boy that draws porter.

Q. With regard to his loyalty you know nothing?

A. I found him industrious, and that is all I know.

Heffer Callaghan, examined by Mr. CURRAN.

Q. Where do you live?

A. In John M'Cann's house.

Q. Did you live there upon the night of the disturbance?

A. I did.

Q. Did you see him any time that evening?

A. I did.

Q. Where?

A. At his own house.

Q. Were you living there?

A. I was.

Q. Are you able to say where he was from the disturbance breaking out during the remainder of the night?

A. He was in his own house from seven in the evening; he did not leave his house till morning.

Q. Did you stay up all night?

A. I did till Mr. Darley came.

Q. Where did you stay?

A. I was sitting up with the prisoner, and Alderman Darley ordered me to go to bed.

Q. What brought him there?

A. He came about 12 o'clock, to search for arms, I suppose.

Q. Was the house searched?

A. It

A. It was.

Q. Was any thing found ?

A. Nothing, but *M'Cann* in bed.

Cross-examined by Mr. PLUNKETT.

Q. The prisoner was in bed ?

A. He was.

Q. And at twelve o'clock the next day Alderman *Darley* came ?

A. No, but at night.

Q. Then the prisoner went to bed at eleven, I suppose, when every thing was quiet and silent ?

A. It was at that time he went to bed.

Q. But you did not go to bed ?

A. No, he wanted me, but he could not get me, nor would I go to bed.

Q. When did the disturbance begin ?

A. About eight, in my opinion.

Q. What time were the shots fired ?

A. There were none—yes there were.

Q. At what time ?

A. About half past eight.

Q. Did you see *Salter* there ?

A. I cannot say, whether I did or not.

Q. Did you see *Andrew* there ?

A. I cannot say.

Q. Did you see any body ?

A. No, not a single creature.

Q. How long before the disturbance had he shut up ?

A. After the shots went past, he ran out and closed his windows ; it was after a man went through the streets with a pistol in his hand, firing every way.

Q. Did he fire in at the window ?

A. No, but along the street every way ; I looked out and saw him, and then ran down to *M'Cann*.

Q. Whom did you see ?

A. *M'Cann*, his wife, and a brother, and a servant, and a girl.

Q. When did you see the brother ?

A. I saw him this day.

Q. Was he there that night ?

A. No. 8.

K

A. He

A. He was.

Q. Were there any persons drinking in the house ?

A. No, I cannot say, there might.

Q. Did you see any other persons there ?

A. I heard there were a good many there before.

Q. Are you a servant there ?

A. No, but I lodge there.

Q. Were there many people there ?

A. I saw Mr. *Fagan's* men there at the pay-table.

Q. Were there any others ?

A. Would you have one to go through a public-house to see all the men that were there.

Q. Have you a husband ?

A. I have.

Q. Where was he that night ?

A. In his room ; he had a sup in his head, and went to bed with the children.

Q. With whom does he work ?

A. With Mr. *Fagan*.

Q. Was he with *Fagan's* men in the tap-room ?

A. He was, for some time, but not at that time.

Q. He lay down till morning ?

A. He did.

Q. And did not hear any thing of the disturbance till next morning ?

A. No, we did not alarm him till Alderman *Barley* came, when he asked what was the matter.

Q. Did the Alderman find your husband and *McCann* in bed ?

A. He did.

Q. What kept you watching *McCann* all night ?

A. He came up to his own room.

Q. That is a distinct room from yours ?

A. It is opposite my room, and I could see him.

Q. How could you see him when he was in the tap-room ?

A. I was in and out.

Q. For what purpose ?

A. To get cloaths from a washerwoman.

Q. You saw no crowd in the street ?

A. No such thing ; I have told you all I know, you need not cross-question me.

Mary

Mary Herbert, examined by Mr. MAC NALLY.

Q. Are you a married woman ?

A. Yes.

Q. Do you live in the house of the prisoner *John M'Cann* ?

A. I did.

Q. Did you live there upon the 23d of *July* ?

A. I did.

Q. Did you and your husband lodge there ?

A. We did.

Q. Do you recollect whether there was any trouble in the city that evening ?

A. I do.

Q. At what hour did you first hear that there was any trouble in the city ?

A. Between half after eight and nine o'clock.

Q. Where did you hear it ?

A. I heard a noise through the street, and looked out of a window.

Q. Did you see the prisoner after you heard that noise ?

A. I did.

Q. Where ?

A. In the bar.

Q. What part of the house did you live in ?

A. In the top part.

Q. Is there a hall-door besides the door into the shop ?

A. No, but the one door.

Q. So that lodgers must go through the tap-room ?

A. They must.

Q. Can you say whether the door of the house was shut that night ?

A. I can, I saw it shut.

Q. At what hour ?

A. About half past eight.

Q. Can you say who shut it ?

A. I saw *Mrs. M'Cann* shut the door, and lock it, and take the key out of the door, and *Mr. M'Cann* was there.

Q. Where was he at that time ?

A. He

A. He was standing in the tap-room.

Q. Did you remain there any time ?

A. I did.

Q. How long ?

A. Five or six minutes.

Q. Did you see him afterwards again that night ?

A. I did.

Q. When ?

A. In about five or six minutes, again I came down, and saw him ; I was not ten minutes without seeing him from half past eight till half past nine, and, to the best of my knowledge, till ten o'clock.

Q. What was the space of time from your first seeing him till you last saw him that night ?

A. To the best of my knowledge there was not ten minutes between every time I saw him.

Q. What was the latest moment of the time you saw him ?

A. I saw him about half past ten, when he had a candle in his hand going up stairs to bed, as I supposed.

Q. Did you see him that night after that time ?

A. No, I did not.

Cross-examined by Mr. MAYNE.

Q. You say you lodge at M'Cann's house ?

A. Yes.

Q. Do you lodge there still ?

A. No.

Q. When did you leave it ?

A. I have taken a shop.

Q. When did you quit M'Cann's ?

A. Eight days last Monday.

Q. How long did you lodge there before the rebellion ?

A. Eight months.

Q. Did your husband lodge there that time ?

A. He did.

Q. When did he go to bed on the night of the 23d ?

A. About eight.

Q. And did he not get up afterwards during the night ?

A. Not till the army came, and routed him up.

Q. He

Q. He and Mrs. *Callaghan's* husband went to bed and slept it out, without hearing of this disturbance?

A. I cannot say.

Q. You did not tell him of the disturbance?

A. No.

Q. But from eight o'clock he slept quiet, notwithstanding all the noise?

A. I did not say he went to bed at eight o'clock.

Q. When then?

A. He came home at that time.

Q. And when did he go to bed?

A. At half past eight.

Q. The house, you say, was shut up?

A. It was.

Q. It was after that he went to bed?

A. It was.

Q. Did he dine at home?

A. He does, when he comes home at night.

Q. He went to bed drunk?

A. No; he was not very sober, nor drunk, but said, "mischief, or no mischief, he would go to bed."

Q. Do you remember the last rebellion?

A. I do.

Q. Where did you live then?

A. At *Longwood*, in the county of *Meath*.

Q. Was any house burned in which you lived?

A. No, I cannot say, not the house in which I lived.

Q. Was any house belonging to your family destroyed?

A. I cannot say, my family is very large.

Q. You say, *McCann's* house was shut up when your husband went to bed—no person was admitted to drink after that?

A. None, but the family of the house; they might drink as they please.

Q. No person drank there after half past eight o'clock?

A. I am on my oath, and cannot say, whether the family drank or not—But the house was shut up at that time, and all who were within, were kept within.

Q. Did you know who were there?

A. There might be strangers for aught I could see.

Q. Did you not say, you came down?

A. I

A. I had no business, but to go through the tap-room.

Q. At what time did you go to bed?

A. Not at all.

Q. You were frightened?

A. I was very much.

Q. Did you talk to Mrs. *Callaghan* about it?

A. I cannot recollect.

Q. She staid up?

A. She did.

Q. And you talked to her?

A. I was not thinking of Mrs. *Callaghan*, when I came here, and cannot say, whether I talked to her or not.

Q. Why were you going up and down every ten minutes?

A. For fear the rebels would break in through the door.

Q. And every time you went up and down you saw *M'Cann*?

A. I did.

Q. Was Mrs. *Callaghan* with him all that time?

A. She was not.

Q. Did *M'Cann* go to bed when he shut the door?

A. No, he did not, for I saw him at half past ten, to the best of my knowledge, as I had no clock, or watch.

Q. And Mrs. *Callaghan* was not with him?

A. No, I saw her in the tap-room and on the lobby.

Q. Did you hear any thing of this matter before it broke out?

A. I never heard of it till that night.

Q. Nor never talked of it to any body, two or three days before?

A. No.

Q. Did your husband tell you of it?

A. No.

Q. You never told Mr. *Hamilton's* servant about it?

A. No.

James

James Fagans, examined by Mr. CURRAN.

Q. I understand you live in *Bridgefoot-street*?

A. I do.

Q. Do you know *McCann*, the prisoner?

A. I do.

Q. How long?

A. Six years.

Q. Do you know his character?

A. I know him to be an attentive industrious man in his business.

Q. Have you ever heard any imputation upon his loyalty?

A. I have not till the present business.

Aaron Izod Dogherty, examined by Mr. MAC NALLY.

Q. Do you know *McCann*?

A. I do.

Q. What business do you follow?

A. A porter brewer.

Q. Where do you live?

A. In *Watling-street*—my brewery is in *Bonham-street*.

Q. Are you acquainted with *McCann's* character?

A. I am.

Q. Have you ever heard his loyalty impeached?

A. Never.

Cross-examined by Mr. TOWNSEND.

Q. Did you hear his character spoken of before this time?

A. No.

Q. You supply him with porter?

A. Yes, 1600 or 1700 hogheads.

Q. Then he must have many people resorting to his house?

A. He must a great many.

William Grumley, examined by Mr. CURRAN.

Q. Do you know the prisoner *McCann*?

A. I do.

Q. How long?

A. In

A. In or about nine years.

Q. What character has he born during that interval?

A. I have good reason to know his character—He lived with my father four years—he was an old infirm man, and during that time, the prisoner conducted himself with propriety and honesty.

Q. Have you known his character since?

A. I have—living in the neighbourhood.

Q. Have you ever heard his character for loyalty impeached t^his occasion?

A. No.

(Here the evidence for the prisoners closed.)

Counsel upon each side relinquished their privilege of speaking to the evidence.

Mr. BARON DALY.

Gentlemen of the Jury:

This is a late hour and fatigued as we must all be, I shall, as far as the justice of the case will allow me, take up as little of your time as possible.—The evidence is exceedingly voluminous; it will be necessary for me to state such facts as are material, and you, I am sure, will attend to it with patience.

The Prisoners stand indicted for High Treason, in compassing and imagining the death of the King, and conspiring to levy war, and it is stated that they did actually levy war.

The facts proved are of such a nature, that, if they are believed by you, they go to substantiate this charge—it is for you, however, to weigh the evidence, and as you give it credit, to determine accordingly.

With regard to the preliminary evidence, it will not be necessary to trouble you with it. It makes no part of the case of the Prisoners or either of them to dispute that fact: on the contrary, all the witnesses for them admit it, and therefore it would be idle in you to throw away any portion of your time in debating that, which cannot admit of any question, that a general insurrection took place upon the 23d of July in *Thomas-street*, and the neighbourhood thereof.

The

The first evidence, which I shall detail to you, is that given by *Donough M'Creight*, which was offered merely for the purpose of shewing that persons were forced to join that insurrection, who had no inclination for it, and how far that supports the testimony of the other witnesses or not, you will determine.

(Here the learned Judge stated the testimony of Mr. *M'Creight*, and the other witnesses examined on behalf of the Prisoner and then proceeded.)

This, Gentlemen, is the whole of the evidence for the Crown, and it is necessary to make some observations upon it, more especially as it was observed by the counsel for the Prisoners in stating their case, that the witness *Mahaffey* was seeking to save his own life, and that he was an acknowledged informer. What inference you may draw, with regard to his being an informer, it is not for me to say—The Counsel has endeavoured to impress upon your minds, that *Mahaffey* joined the insurgents voluntarily; he swore upon the table that he was forced.—If you believe, that he joined them voluntarily, he is an informer, and of the worst kind, because he is not a candid informer:—but he is represented as an acknowledged informer.—I take an acknowledged informer to mean one or other of these two—A man who is accused of a positive crime, first confesses it, and afterwards accuses others; or a person taken in the very act of committing the crime, and afterwards accuses others to save his own life. But *Mahaffey* is neither of these—much less is *Ryan*. It appears from their evidence, that when they were taken, there was no positive charge against them; they were taken upon suspicion, by the vigilance of the magistrates, who were on the watch for strangers passing through the country:—It also appears, that when they were arrested, and without any charge exhibited against them, they told the story, as they did here. That can by no means convey the charge of an acknowledged informer, as represented.—With regard to their having joined the party voluntarily, there is no direct evidence before you, and if it can be collected at all, it must be from something in their own evidence, or their manner of giving it.

Now, I have been examining the circumstances with a desire, if I could, to find any thing which would shew they were not telling truth; and the circumstances I collect are, that *Ryan* is the last person with whom another would have joined in an act of rebellion—a timid, sickly man, incapable of exertion—frightened at every stir—so that it appears to me, but of that you will judge, that he was the last man who would join in such a business; and it appears, that the same force was used against him, as there was against *Mahaffey*.—They remained together the whole time, they were in the tumult, and escaped together.—If, after that, you believe they joined together voluntarily in that party, you ought to reject their testimony.—If there are any other circumstances which shew they did, I would be obliged to any of you, Gentlemen, or to any person in Court concerned, or anxious for the prisoners, to point them out to me. But if no such circumstances exist, I do not see any part of their conduct, that is not perfectly consistent with men in their situation. They quit the town to be sure, and proceed by various courses—but they do so, not only from not knowing which party had prevailed, but that even if they did, they knew, that being among the tumult, and being men of inferior situation, they might be involved in danger. I shall observe no further upon the evidence for the Crown; I leave their credit entirely to your judgment.

Both the prisoners have gone into a defence, called an *alibi*;—with regard to which, if it be true, I shall observe, that it is the best defence that can be advanced.—But, on the contrary, if it turns out to be untrue, it amounts to a conviction.

(The learned Judge then stated the testimony of the several witnesses for the prisoners, making occasional observations thereon—at the conclusion he said——)

This is the whole of the evidence for the prisoners.—I shall only further observe, that if you believe the testimony of *Hester Callaghan* and *Mary Herbert*, they go completely to shew, that *M'Cann* was not out of his own house.—*Ryan* has not identified the prisoners, and therefore

therefore that depends upon the testimony of *Mabaffey*. You have heard how far he is corroborated—you have also heard the witnesses for the prisoners, and you will see how far they corroborate, or contradict the others. It is your duty to decide according to your opinion of them.—If, upon the whole, you have any doubt, you should lean to the side of mercy; but that should be a rational doubt, such as men upon their oaths may entertain. And I am also to observe, that the evidence of character will tend greatly to strike the balance, if a doubt should create a balance in the case.—But I am also to observe, that evidence of mere private character is not so relevant to the charge of treason, as a character of active loyalty. The evidence is strong to shew private honesty, and it may tend to shew, that a man having a character for honesty, is not likely to be concerned in treason; but we all know, that men remarkable for honesty, may be deluded into schemes of treason, and therefore the only character, which would be strongly applicable, would be a character for loyalty. No one of the witnesses speaks affirmatively of the loyalty the prisoners—It is mere negative evidence as to that; they did not hear it impeached.—Upon the whole, Gentlemen, you will decide.

The Jury retired for forty-seven minutes, and returned a verdict finding both prisoners, *Guilty*.

The prisoners were remanded, and the Court adjourned at ten o'clock at night.

On *Friday, September 9th*, they were put to the bar, and asked, what they had to say, why judgment should not be pronounced against them.

John Killen. May I never enter the Kingdom of Heaven, if I ever handled a pike.

John McCann. I never left my house; or handled a pike or pistol these five years to my knowledge.

Mr. *BARON DALY* proceeded to pass sentence—He said it was with heart-felt pain, the Judges were called upon, day after day, to pronounce judgment of death upon their

their fellow-creatures ;—but that pain was encreased manyfold, by hearing assertions of the kind which had then dropped from the prisoners—a denial of guilt which had been so plainly proved, and with that denial were about to rush into the presence of their God.—Nothing but an eager desire to rescue them from the horrid impressions of their own minds, could induce him to add one word of admonition to them.—It was impossible for a fellow-creature not to say a word to try to save them from eternal perdition.—They were born in humble situations in life, in which happiness was as much to be found as in the most exalted situations ;—but they wanted what was essential to happiness, a contented well-regulated mind.—They were both thriving in the situations in which they had been placed ; but not content with honest property, they lent a willing ear to the suggestions of traitors, and entered into a conspiracy for the overthrow of the government.—They took up arms in the execution of this enterprize, but their thirst of blood was so great, that they were diverted from their original purpose, atrocious as it was, invited by the desire to imbrue their hands in the blood of unresisting and unoffending individuals. It was proved, that they made use of their weapons upon the bodies of men groaning upon the ground—giving the unfortunate men no time to make their peace with their God—no trial was granted them, or any opportunity to make their defence—while, on the contrary, the prisoners, who were proved to have acted in this manner, had a most fair and impartial trial. They had an opportunity of offering every thing which they could—their trial in this world was over—but they had still a more awful one to undergo, in which their happiness or misery was to be pronounced upon for ever. If they had the education of Christians, in any form of christianity, they must be convinced, that they could not be received, even by infinite mercy, except they were recommended by sincere repentance ; and they could not but know, that it was essential to repentance to make an open confession of their guilt. It was their duty, and the only atonement they could make. But it was an aggravation to deceive their great Creator, who knew every sentiment

ment of their hearts.--He therefore entreated them, for the last time, and implored them, as they valued their eternal salvation, to disclose all they knew; and might that God, whose attribute was infinite mercy, as well as infinite justice, receive their confession and sincere repentance, as an atonement for their crime.

Sentence was then pronounced in the usual form.

John M'Cann. I hope, before it's long, you will find out the corrupt perjury of this villain. I said before, I never left my house from six o'clock that evening, and may I never enter the kingdom of Heaven, if I handled a pike, sword, or pistol, these five years.

The prisoners were executed in *Thomas-street*.

Counsel for the Crown.
Same as in the former
Trials.
Crown Solicitors,
T. and W. KEMMIS.

Counsel for the Prisoner.
MR. CURRAN,
MR. MAC NALLY.
Agent,
MR. FLOOD.

Very truly yours,
[Signature]
[Name]
[Address]
[City, State, Zip]

Enclosed for you are [Number] copies of [Title]
[Description of contents]
[Additional information]

Very truly yours,
[Signature]

[Name]
[Address]
[City, State, Zip]

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A
R E P O R T

OF THE

PROCEEDINGS.

IN

Cases of High Treason.

SPECIAL COMMISSION.

Friday, September 9th, 1803.

Judges present:—*Lord NORBURY, Mr. Justice FINUCANE,*
Mr. Baron GEORGE, and Mr. Baron DALY.

JOSEPH DORAN was put to the bar for trial:—He
had been arraigned on the 3d day of *September*, upon
the following indictment:—

County of Dublin, } THE Jurors for our Lord the
to wit. } King, upon their oath present, that
Joseph Doran, late of *New-street,* in the county of *Dublin,*
Yeoman, a subject of our said Lord the now King, not
having the fear of God in his heart, nor weighing the
duty of his allegiance, but being moved and seduced by the
instigation of the Devil, as a false traitor against our said
Lord the now King, his supreme, true, lawful and un-
No. 9. B doubted

doubted Lord, the cordial love and true and due obedience which every true and dutiful subject of our said Sovereign Lord the King, towards him the said Lord the King, should bear, wholly withdrawing, and contriving and intending the peace and common tranquillity of this realm to disquiet, molest and disturb, and the Government and Constitution of this realm to change, subvert and alter, and our said Lord the King from the Royal state, title, honor, power, Imperial crown and Government of this realm to depose, and deprive, and our said Lord the present King, to death and final destruction to bring and put, he the said *Joseph Doran*, on the twenty-third day of *July*, in the forty third year of the reign of our said Lord the King, at *New-street* aforesaid, in the county of *Dublin* aforesaid, with force and arms, falsely, wickedly and traitorously, did compass, imagine and intend, our said Lord the King, then and there, his supreme, true and lawful Lord, of and from the Royal state, crown, title, power and government of this realm to depose and wholly deprive, and our said Lord the King to kill and bring and put to death, and that to fulfil, perfect and bring to effect his most evil and wicked treason, and treasonable imaginations, and compassings aforesaid, he the said *Joseph Doran*, as such false traitor as aforesaid, on the said twenty-third day of *July* in the said forty-third year of the reign of our said Lord the King, at *New-street* aforesaid, in the said county of *Dublin* aforesaid, with force and arms, falsely, maliciously, and traitorously did conspire, confederate and agree to and with divers other false traitors whose names are to the Jurors aforesaid unknown, to raise, levy and make a public and cruel insurrection, rebellion and war against our said Lord the King within this realm.

And afterwards, to wit, on the said twenty-third day of *July*, in the said forty-third year of the reign of our said Lord the King, with force and arms, at *New-street* aforesaid, in the county of *Dublin* aforesaid, he the said *Joseph Doran*, as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes aforesaid, did arm himself with, and did bear and carry a certain weapon called a pike, with intent to associate himself with divers other false traitors, armed with guns, swords, and pikes, whose names are to the said Jurors unknown, for the purpose of raising, levying, and making insurrection, rebellion

rebellion, and war against our said Lord the King, and of committing and perpetrating a cruel slaughter of, and amongst the faithful subjects of our said Lord the King within this kingdom.

And that afterwards, to wit, on the said twenty-third of *July*, in the said forty-third year of the reign of our said Lord the King, with force and arms, at *New-street* aforesaid, in the county of *Dublin* aforesaid, the said *Joseph Doran*, as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes aforesaid, with a great multitude of persons whose names are to the said Jurors unknown, to wit, to the number of one hundred persons and upwards, armed and arrayed in a warlike manner, to wit, with guns, swords, and pikes, being then and there unlawfully and traitorously assembled and gathered against our said Lord the King, did prepare, levy, ordain, and make public war against our said Lord the King, against the duty of the allegiance of him, the said *Joseph Doran*, against the peace of our said Lord the King, his crown and dignity, and contrary to the form of the statute in such case made and provided.

And the Jurors of our said Lord the King upon their oath do further present, that the said *Joseph Doran*, being a subject of our said Lord the now King, and not having the fear of God in his heart, nor weighing the duty of his allegiance, but being moved and seduced by the instigation of the Devil, and entirely withdrawing the love and true and due obedience which every subject of our said Lord the King, should and of right ought to bear towards our said Sovereign Lord the King, and wickedly devising, and intending to disturb the peace and public tranquillity of this kingdom, on the twenty-third day of *July*, in the forty-third year of the reign of our said Lord the King, with force and arms, at *New-street* aforesaid, in the county of *Dublin* aforesaid, unlawfully, maliciously, and traitorously did compass, imagine, and intend, to raise, and levy war, insurrection, and rebellion against our said Lord the King within this kingdom. And in order to fulfil and bring to effect the said traitorous compassing, imaginations, and intentions last mentioned, of him the said *Joseph Doran*, he the said *Joseph Doran*, afterwards, to wit, on the said twenty-third day of *July*, in the said forty-third year of the reign of our said Lord the King, with force and arms, at *New-street*, in the county of *Dublin* aforesaid, with a great multitude

multitude of persons whose names are to the said Jurors unknown, to a great number, to wit, to the number of one hundred persons and upwards; armed and arrayed in a warlike manner, to wit, with guns, swords, and pikes, being then and there unlawfully, maliciously and traitorously assembled and gathered together, against our said Lord the now King, most wickedly, maliciously and traitorously did ordain, levy, and make public war against our said Lord the King, his supreme and undoubted Lord, contrary to the duty of the allegiance of him the said *Joseph Doran*, against the peace of our said Lord the King, his crown and dignity, and contrary to the form of the statute in such case made and provided.

The prisoner pleaded *Not Guilty*, and being now put to his challenges, the following jury of the county of *Dublin* was sworn, after two were set by on behalf of the crown, one challenged by the Prisoner, for want of freehold, and three were challenged peremptorily.

James White,
William Pemberton,
Archibald Hawkesley,
George Cuppaidge,
Robert Walker,
William Sherwin,

James Cuppaidge,
Christopher Eades,
Arthur Keene,
Jonathan Bagnall,
Bennet Dugdale,
William Davis.

MR. PRIME SERJEANT.

My Lords and Gentleman of the Jury,

The prisoner at the bar is one of those wretched persons, who are charged with being concerned in the horrid atrocities of the night of the 23d of *July*. Great as his guilt is, the circumstances which I have to state are very few, and the case very plain. One circumstance of enormity is superadded to those of the other persons, who have been tried at this commission, that the prisoner was a man, who was received into the King's employment. He was employed in the King's Ordnance in the Lower Castle-yard, and you, gentlemen, will be satisfied of his identity by some of the persons who worked there.

Upon the night of the 23d of *July*, a number of persons, armed with pikes, were seen proceeding through *New street*. They were divided into two parties—one proceeded through *Fresstone-alley*, and the witness who will be produced

duced to you, observed the prisoner, who had two pikes, one upon each shoulder, walking with this party, and conversing with them. The witness knew his person, and where he worked, but did not know his name. ~~The witness, who is a young boy, apprentice to his father, immediately communicated the matter to his father, which I mention in corroboration of the identity of the prisoner.~~

Gentlemen, these are the circumstances. The facts, if proved, are simple and convincing. It has been the uniform practice of the counsel for the crown, to confine themselves to a mere statement of the facts, without colouring, or ornamenting beyond the mere enormity of the facts themselves.

Edward Wilson, Esq.

Examined. Upon his direct examination gave the same evidence as upon the former trials.—Vid. No. 1. *Kearney's case*, page 37.

Cross-examined by Mr. MAC NALLY.

Q. All that you saw was in the city of *Dublin*?

A. No;—I saw some things in *New-street*, in the county,—it was a continued scene of confusion and warfare; though I was bleeding much, I continued up the whole night, and we were firing and taking up prisoners the whole night. There were some horsemen appeared in *New-street*, and I desired them to stop, but they turned back, and I desired a soldier to fire at them, but he missed them.

Q. (*By the Court.* What marks of confusion did you see in *New-street*?

A. I saw men with pikes, and they were stopped by the watchmen and kept in custody till morning, when they were delivered up to prison.)

Q. (*By a Juror.* Did you yourself see any men with pikes in the county of *Dublin*?

A. No, but I saw the watchmen bring them up, and the watchmen had the pikes in their hands, and the prisoners confessed they had the pikes.)

Lieutenant COULTMAN.

Examined.—Gave the same evidence as upon the former trials.—Vid. No. 1. *Kearney's case*, page 48.

Thomas

Thomas Rice,

Examined.—Proved the proclamation, as in No. I. page 53.

STUART HOME DOUGLAS.

Examined by Mr. SOLICITOR GENERAL.

Q. Be pleased to give an account of what happened at the *Coombe* upon the night of the 23^d of *July*?

A. I had charge of the guard-house upon the *Coombe*.

Q. That is in the county of *Dublin*?

A. It is:—one part of the street is in the county, the other in the city.—An attack was made upon me by three or four hundred people, as well as I could judge from the pikes—as it was dark, I did not distinguish the men, but I heard from others, that there was not room for them to come down—after the first volley, I heard a leader urging them to come on, but upon the second they fled, and I gave them a third as they turned the corner of *Francis-street*.

Not cross-examined.

William Harrow,

Examined by the COURT.

Q. How old are you?

A. Going on thirteen.

Q. Have you been educated by being taught your prayers and catechism?

A. Yes, sir.

Q. Do you know what an oath is?

A. Yes.

Q. What would become of you, if you were to swear falsely?

A. I would go to hell.

The witness was then sworn.

Examined by Mr. PRIME SERJEANT.

Q. Consider, before you say any thing, that a man's life depends upon what you say, and therefore consider before you answer.—Where do you work?

A. In the Ordnance-yard,

Q. With

Q. With whom do you work there?

A. With Captain *Godfrey*.

Q. Are you an apprentice?

A. Yes, sir, to my father.

Q. What is his name?

A. *Thomas Harrow*.

Q. What is his business?

A. A smith.

Q. Where does he work?

A. In the *Ordnance-yard*.

Q. Do you remember the night of the 23d of *July* last?

A. I do.

Q. What night in the week was it?

A. I do not rightly know.

Q. Do you remember the night of the disturbance in *Dublin*?

A. I do.

Q. Do you know *Joseph Darran*?

A. I do.

Q. Look about and try if you see him?

A. There he is (*pointing to the prisoner*.)

Q. Have you seen him working any where?

A. I have.

Q. Where?

A. In the *Ordnance-yard*.

Q. At what work?

A. Labouring work.

Q. Were you acquainted with his face and person?

A. Yes, I was very well.

Q. Did you see him on the night of the 23d of *July*?

A. I saw him on the night of the *row*: I do not know whether it was in *July*.

Q. How long ago is it?

A. I cannot rightly say.

Q. What do you mean by the night of the *row*?

A. The night the rebels broke out.

Q. Where did you see the prisoner?

A. In *Freebone-alley*.

Q. In what part of the town is that?

A. One end of it leads into *New-street*, the other to the *Puddle*.

Q. Were there any people with him?

A. There were.

Q. How

Q. How many?

A. I could guess about twenty.

Q. How were they they distinguished, or how were they dressed?

A. In the same coloured clothes as usual.

Q. Had they arms?

A. They had pikes.

Q. How many?

A. All of them.

Q. Did you see *Doran* at that time?

A. I did.

Q. Had he any arms?

A. He had two pikes upon his right shoulder and hold of his apron with his left hand.

Q. Had you seen him that day before?

A. Yes, I had.

Q. Where?

A. In the yard.

Q. What yard?

A. The *Ordnance-yard*.

Q. Now, boy, can you take upon you to swear positively, that you saw *Doran* that night with pikes going through *Free-stone-alley*?

A. I can.

Q. Was any person at the head of the party?

A. Two officers were at their head in scarlet and green:—one had a hat and feather and a sash.

Q. Did you mention to any body at the time that saw *Doran*?

A. I did.

Q. To whom?

A. To my father.

Mr. MAC NALLY. My lords, I object to any evidence being given of what the witness said to his father.

COURT. So far as any fact happening at the moment, the witness may give that in evidence.

Q. When you saw these people did you call out to any body?

A. I called out to my father.

Q. (*By the Court.* At the moment?

A. Yes.)

Q. Where

Q. Where were you standing at the time?

A. At my father's door.

Q. (*By the Court.* Which way did they march?

A. Up *New-street*.)

Q. Did you say any thing at the time?

A. Yes, sir;—I said—"Here is the new pike-men out of the Castle-yard."—Because I heard, there were to be pikemen formed to every regiment.

Q. You thought they were loyal men armed at the Castle?

A. I did.

Q. Why did you suppose these men were from the Castle?

A. Because of seeing the officers going before them.

Q. Did you see any man belonging to the Castle-yard?

A. Yes, *Doran*.

Q. You told your father?

A. Yes.

Q. Mention exactly what you said?

A. Father, said I,—“Here are the new pike-men from the Castle-yard.”—My father looked out, and was going to beat me for saying it, for he said, “They were rebel pikes.”

Q. Did your father see any of the pikes?

A. He saw one of them.

(*By a Juror.* Did you tell your father at that time, that *Doran* was among them?

A. I did not.)

Q. Did you know his name at the time?

A. I did not:—I said there was a labouring man from the Castle-yard with two pikes.

Q. When did you next see *Doran* afterwards?

A. On *Monday* morning.

Q. Where did you see him?

A. In the *Ordnance-yard*.

Q. How long was that after the *row* as you call it?

A. Two days.

Q. What happened there?

A. I saw nothing happen there; but I brought Mr. *Hanlon*, the Tower-keeper, to the Castle-yard, and shewed him *Doran* and he went and tapped him on the shoulder.

No. 9.

C

Q. For

Q. For what purpose did you tell *Hanlon*?

A. I told him, I saw *Doran* on *Saturday* with pikes upon his shoulder, and *Hanlon* asked him, "Where he had been that night."—He said, "He was at *New-market*, and could get people to prove he was at home."

Cross Examined by Mr. MAC NALLY.

Q. I believe, my man, you mentioned the hour.—What hour was it?

A. About nine o'clock.

Q. Do you think it might be a little later?

A. I do not doubt but it might—I cannot be exact.

Q. It might be half past nine?

A. I am not sure, whether it might.

Q. You are not sure, it might not?

A. We thought it to be about nine.

Q. But you have no reason to say, that it might not be half an hour after?

A. I do not doubt but it might.

Q. This was a dark night?

A. It was rather dark.

Q. Retollect yourself—As you were told the man's life is at stake, you will tell the truth—was it not very dark?

A. Not very dark at the time.

Q. Where were you at the time?

A. At my father's door.

Q. They did no injury to you or to any person?

A. No.

Q. They merely passed on?

A. Yes:—one of them cried out, swearing an oath—"We will give *cale-cannon* to-morrow.

Q. Who spoke to them?

A. I do not know.

Q. You were not intimate with the prisoner in the yard?

A. No, but I saw him several times, and knew him well, but did not hear his name:

Q. There were a good many people in the yard?

A. Yes.

Q. Would you know the face of any of them besides the prisoner?

A. I would; but I did not see the face of any man from the yard, but this man.

Q. Have

Q. Have you never been mistaken as to the face of a person?—Have you never, when walking the street, mistaken an acquaintance?

A. No, sir.

Q. It never hapened to you?

A. No, sir.

Q. You are thirteen years of age?

A. Yes, going on thirteen.

Q. This man, however, came into the Castle-yard, on *Monday* morning?

A. Yes.

Q. And *Hanlon* was there?

A. Yes.

Q. The man, when he was taken, said he could shew where he was on *Saturday* night?

A. Yes, he did.

Q. And he came to his usual place of work on *Monday* morning?

A. Yes.

Q. Had he been any time at work that morning; what time did you call upon *Hanlon*?

A. After breakfast.

Q. You saw the prisoner there that morning?

A. I did.

Q. Did he see you?

A. I cannot say.

Q. He might have seen you?

A. He might.

Q. You came after breakfast?

A. Yes.

Q. And then you had him taken?

A. Yes.

Q. He returned after breakfast?

A. He did.

Q. Were there not many persons there, who take up thieves and rebels?—*Hanlon*, and others of that description?

A. I do not know all of them.

Q. Were not the Castle-gates kept close shut on *Monday*?

A. They were.

Q. Do you not think the Castle the most dangerous place for a man to go on *Monday* morning, who had been out on *Saturday* night?

A. I believe so.

Q. The

Q. The prisoner found it the most dangerous place, for he was taken there?

A. Yes.

Q. (*By the Counsel for the Crown.*) Did you see any other body of armed people that night?

A. Not in the alley; but they were in the street.

Q. (*By a Juror.*) How long did you know the prisoner?

A. I cannot say.

Q. How long do you suppose?

A. About a month.

Q. Did you ever speak to him?

A. No.

Q. Are you certain and sure that he is the person?

A. I am sure and certain.

Q. (*By the Court.*) Are you sure you have known him a month?

A. A month or better.

Q. (*By a Juror.*) When they marched through the alley, did they march in a body?

A. They went singly—one after another.

Q. (*By the Court.*) How was the prisoner dressed?

A. In a brown coat, leather breeches and a white linen apron.

Q. How was he dressed next morning?

A. I am not sure as to the coat; but I am sure as to the apron.

Q. (*By the Counsel for the Crown.*) How broad is the lane?

A. Not broad.

Q. Could a carriage pass through it?

A. No, sir.

Q. Are there lamps in it?

A. There is one at the corner.

Q. How far is it from your father's door?

A. A good way.—We live in the middle of the alley.

Q. Can you see the lamp from your father's door?

A. Yes.

Q. Was there any light from a shop, or was there any shop open?

A. A Woman keeps a fruit-stand near it.

Q. Was

Q. Was she out that time?

A. No.

Q. How near were you to the prisoner when he passed?

A. About two yards.

Q. Did you call your father before they all passed by?

A. I did.

Q. Did he come and see the last man?

A. He did.

Q. Was the prisoner the last man?

A. No, he was near the foremost.

Thomas Harrow,

Examined by Mr. SOLICITOR GENERAL.

Q. Do you know the last witness?

A. I do; my wife says he is my son.

Q. Where do you work?

A. In the Ordnance-yard, these six years.

Q. In what department?

A. In the Gunsmiths', under captain *Godfrey*.

Q. Do you recollect the 23d of July?

A. I do.

Q. At what time did you go home that day?

A. A little after six we are generally dismissed, and I go home always from the yard.

Q. Did your son go home with you?

A. He did;—He always does.

Q. Did you remain at home after?

A. I did.

Q. Do you recollect being called out by your son?

A. Very well.

Q. About what time?

A. About nine.

Q. Was it dark?

A. It was not quite dark—nor is it dark by that hour in that time of the year.—It was not quite dark, for I could distinguish pikemen very plain.

Q. What did you go out for?

A. The boy called me out, saying, "father, here are the new pikemen from the Castle-yard."

Q. Where were you at the time?

A. Sitting at the fire; and the boy and his mother were leaning over the half door.

Q. Did

Q. Did you come to the door in consequence of what your son said?

A. I did, and said, "damn you, for a cur, there are no pikemen in the Castle-yard."

Q. What passed then?

A. He said, "there is a labourer that works in the Castle, with two pikes upon his shoulder gone by."

Q. When you came to the door and had this conversation, did you see any of the party?

A. I saw one pikeman, and turned back and said, "Damn me, but these are rebels pikes, and we will be all murdered this night."—Some persons among the party called out to those before, "Halt, halt!" very regularly, like a serjeant. I knew it was rebel pikemen—I could see plainly; for the alley is not more than six feet wide—no carriage or car passes; for stones are put up in the end, to prevent children from being hurt."

Q. Where did those persons go?

A. Up to *New-street*.

Q. Did you hear any noise after that?

A. Soon after, I heard a single shot fired near the Poddle.

Q. Did you hear any other noise?

A. In some time—near half an hour, as I think, there came a tumultuous mob rushing down from the Poddle; and they cried, "turn out, you bloody thieves," and they broke the windows of a loyal man.

Q. You did not go out of your house that night?

A. No.

Q. Are you acquainted with the prisoner?

A. No.

Q. Have you seen him?

A. I do not recollect having seen him, only hearing that he worked in the Ordnance.

Not Cross-Examined.

Q. (*By the Jury.*) Are you a labourer in the Castle, now?

A. Yes, and have been these six years.

Q. (*By the Court.*) Do you work in a covered place?

A. Yes, the armourers all work in a covered place.

Q. Is that in the Ordnance-yard?

A. It is.

Q. Are

Q. Are all the workmen there?

A. No; it is a back place—we do not know any thing of the strangers passing back and forward.

Q. Does your son work in the same place?

A. He does; but he goes back and forward with messages and with coals.

Q. Then he had an opportunity of knowing the prisoner that you had not?

A. He had, by the recourse through the place.

William Bomford.

Examined by Mr. PLUNKET.

Q. Have you any situation in the Ordnance, in the Castle-yard?

A. I have.

Q. What is it?

A. Clerk of the checks.

Q. Have you an opportunity of knowing the persons employed there?

A. I have.

Q. Look at the prisoner at the bar;—do you know him?

A. I do; he was on my list from the time he got into the yard.

Q. How long was he there?

A. About six or eight weeks before the 23d of July; I am not quite sure.

Q. He worked in the Ordnance?

A. He did.

Q. Do you know *Harrow*?

A. I do.

Q. Did he work there?

A. He did.

Q. Do you know his son?

A. I do—the eldest *Harrow* was formerly upon our list—lately, I do not know him.

Cross-Examined by Mr. MAC NALLY.

Q. Can you recollect who recommended the prisoner as a labourer?

A. I can.

Q. Who recommended him?

A. *Mr. Blood.*

Q. I

Q. I believe you would not have received any man, particularly in such times as have been experienced, as a labourer in the Castle, without a good character?

A. We have taken some without recommendation, but this man brought a very good character.

Q. And so he worked there attentively and honestly till the time he was taken up?

A. He did.

Q. (*By the Jury.*) Was he a sober man?

A. I never saw him in liquor.

Q. (*By the Court.*) Do you speak of his character for honesty or loyalty?

A. I never heard any thing as to his loyalty.

Q. What then do you say of his character?

A. That he was an honest, industrious man.

Q. Did he attend his work diligently?

A. He did.

Q. Who is Mr. Blood?

A. He is in the office with me.

John Hanlon,

Examined by Mr. MAYNE.

Q. Have you any business or employment at the Castle-yard?

A. Yes.

Q. What is it?

A. Tower-keeper.

Q. Were you so upon the 23d of July?

A. Yes.

Q. Do you know *William Harrow*?

A. Yes—a small lad, that works at cutlery and the gunsmith's business.

Q. He worked there before that time?

A. He did.

Q. Do you know the prisoner at the bar; did you ever see him before?

A. I never took notice of him till *Harrow* came and told me, the prisoner was one of the people out that night, and that he had two pikes and a white apron—he said, he had the white apron still on him, and if I went in, he would shew him, and that it would be a charity to have him taken.

Q. What

Q. What time was this?

A. It was some days after that time, I cannot ascertain the time, or the number of days. It was a few days after the row, as they call it.

Q. (By a Juror. Was it more than two days?

A. It was.)

Q. Did you see the prisoner pointed out by any person?

A. William Harrow came to me, and brought me to the man, and said "This is the man, who had the two pikes on the Saturday night."

Q. Did he say that in the hearing of the prisoner?

A. He did: he came with me, shoulder by shoulder.

Cross-examined by Mr. MAC NALLY.

Q. What did the prisoner say upon that?

A. He said, "If there was any thing against him, he would clear himself, and that it was only to fend for him" and he would come."

Q. (By a Juror. When you spoke to the prisoner did he appear embarrassed?

A. He did not look any great way embarrassed; he looked a little of course, upon being accused as a prisoner.)

Q. Might not an innocent man be surprised, if he were told by you in the Castle-yard, that he was charged with treason?

A. I should suppose it would startle any man.

Q. (By a Juror. Do you remember perfectly the night of the row?

A. It was on a Saturday.)

Q. Of course, the next day was Sunday, can you swear positively it was not on the Monday morning, he told you of the prisoner?

A. I cannot—but the morning he came, he was taken; Bonford's books ought to tell; and I do not know the morning; I believe it was on Tuesday.

Q. Can you say, whether it was Monday or Tuesday?

A. I cannot.

Q. Was it after breakfast?

A. It was after breakfast—after the bell ringing.

Extracts from the proclamation were then read—as before
—Vid. No. I. Kearney's case, page 54.

Case closed on behalf of the crown.

Mr. MAC NALLY.

My Lords, and Gentlemen of the Jury,

In this case, trust me, I would feel great satisfaction, if the prisoner stood in the same situation, as if he were tried for felony, where he would not be intitled to the aid of counsel on matter of fact.—Because, gentlemen, the case is so completely within your peculiar jurisdiction, and within the reach of every man's understanding, that I shall have occasion to say a very few words indeed. You must have already anticipated what the defence of the prisoner will be, from the weakness of the evidence to support the charge against him. It is not for me to impeach the credit of the boy; because I have no instruction of that kind; but I impeach his infallibility, and I impeach it by saying that he has taken upon himself to allege that, which no adult in the community would scarcely do—that is, to give obstinate, positive evidence of the identity of the prisoner. You will consider, whether the human mind under such circumstances as have appeared, be competent to decide, as he has undertaken to decide, and whether, though he may not have perjured himself, yet it is possible he may be mistaken, and the prisoner is entitled to that humane construction from you, and if you think so, you will with pleasure acquit him.

Gentlemen, if ever there was a case demanded corroborative evidence, it is this case; and the defence which I have to lay before you, will tend still stronger to make you suspect the accuracy of the boy. The defence will consist of two branches, an *alibi* honestly proved and a fair character. The testimony of witnesses most credible; of unimpeached reputation, to shew, that this man the prisoner, after leaving the Ordnance-yard where he worked, went to *Ormond-market*, and there prepared to go visit his wife, who is a wet nurse to Mrs. *Couzens*, who then lived in *Digges-street*, and who now resides in *Harcourt-street*,—that he was there a considerable time and amused himself in conversation with his wife and the servants of the house, till half past nine at night. It will appear he was there till

it became perfectly dark. He will shew, that he returned from *Digges-street* to his lodging in *Ormond-market*, and it will be a material circumstance for your consideration that this man, on the very *Munday* morning after was at his work, with all the appearance of innocence in a dangerous spot for a guilty man to shew himself. It will appear he was in the *Castle-yard*, where numbers of loyal people are employed, and where Major *Sirr* keeps an office, attended by persons, accustomed to arrest such as are engaged in criminal practices. Gentlemen, if that is not conclusive evidence of innocence, it is as strong presumptive evidence of innocence as can be produced in any case of this kind.—This is one of the cases, where proof of an *alibi* cannot raise a smile because it is above suspicion.—It is one of the cases, which Mr. Justice *FOSTER* speaks of, when he says, “an *alibi*, if it appeareth to be founded in truth, is the “best negative evidence can be offered; it is really positive evidence, which in the nature of things necessarily “implieth a negative.” In such a case what is the jury to do? If they believe the evidence for the prisoner; or if they doubt the evidence for the crown—natural justice and common sense suggests that it is their duty to acquit.

The prisoner is charged with being at a certain place where a crime was perpetrated. He disproves that fact by shewing that he was in another place at the time when the crime was perpetrated—is not that conclusive? Gentlemen, I should be ashamed to occupy more of your attention, by expatiating upon the nature of that defence.—But there is another defence, character unimpeached—and their lordships will tell you, that where a man produces an excellent character supported by the testimony of credible witnesses, it should be sufficient to raise a doubt in your minds of the testimony of the boy; not by impeaching his credit, but by shewing that he labours under a mistake as to the prisoner's identity. He said he swore he never mistook one person for that of another. I venture to appeal to yourselves, whether you have not upon several occasions mistook strangers for your friends. A very remarkable circumstance happened here during these trials. A Mr. *Courtney*, a merchant of great respectability, but of very strong recollective faculties, came voluntarily upon the table to give evidence against a prisoner, and upon Mr. *BALL* asking him, whether he had not been once mistaken for his brother, and whether he Mr. *BALL* had not walked with

with him for some time and spoke to him under that mistake, he admitted the fact. If a lawyer of Mr. BALL's shrewdness and recollection could commit such a mistake, surely a boy of the age of the witness would be more likely to fall into one.

But, gentlemen, there is a point deserving serious attention in that boy's testimony. If it was not dark, it was dusky, yet he swore to the clothes of the prisoner, he was positive to their colour. When the question was put as to the clothes, which the prisoner wore on *Monday* morning, in the day light, when there was a full opportunity of seeing them, he would not swear to their colour. He had seen him before breakfast—he saw him when he was taken, yet he could not say what the colour of the clothes then was.—Must not that make an impression upon you, unfavourable to the accuracy of his recollection?

Gentlemen, I will not detain you further. I conceive this is a matter entirely for your consideration. It is of serious consequence; because upon your opinion of the evidence depends not only the man's life, but his fame, every thing which is dear to the human mind! A conviction on a charge of high treason is attended with circumstances calculated to shock even the strongest mind. You, most probably, have heard them, when sentence has been heretofore pronounced, I will not repeat them. I leave the prisoner to your judgment and mercy.

When Mr. MAC NALLY sat down, it was stated on the part of the Crown, that Mr. Bamford could ascertain the day of the arrest more accurately than *Harlan*, and that it was *Monday*.

Mr. MAC NALLY said, that he admitted it was *Monday* and made it part of the prisoner's case, because if he had absented himself till *Tuesday* there might be some room for suspicion against him; but his appearing abroad on *Monday* was strong presumptive evidence of his innocence, as to the crime charged upon him.

Elizabeth Walsh,

Examined by Mr. MAC NALLY.

Q. Do you know the prisoner?

A. I do.

Q. Where

Q. Where do you live ?

A. In *Ormond-market*.

Q. Where does the prisoner live ?

A. He lodged with me at that time: he slept with an apprentice boy.

Q. Where does the prisoner's wife live ?

A. In *Harcourt-street*.

Q. Where did she live at that time ?

A. In *Digges-street*.

Q. How is she employed ?

A. As a wet-nurse for *Mrs. Couzens*, the wife of an attorney.

Q. At what hour did the prisoner come home upon the evening of the 23d of *July* ?

A. He came home at half-past six, and cleaned himself to go to his wife as usual.

Q. When did he return ?

A. At half past nine, and remained in the stall with me.

Q. Till what time ?

A. Till eleven.

Q. What do you mean by cleaning himself ?

A. He took off his working dress, and put on a clean handkerchief and clean stockings.

Q. Can you recollect any particular part of his dress ?

A. I recollect he wore a brown body coat.

Q. Have you known him long ?

A. Since he was a small boy,

Q. Has he the character of a loyal, peaceable young man ?

A. He was always a peaceable, quiet boy.

Q. What do you say as to his loyalty ?

A. I never heard any thing said against it.

Q. Was his conduct upon *Saturday* evening, the 23d of *July*, the same as was usual and customary with him ?

A. It was.

Q. Where was your husband that evening ?

A. He was lying ill, and could not give any account of the man.

Cross-Examined by Mr. SOLICITOR GENERAL.

Q. What is your husband ?

A. He is a victualler.

Q. In

Q. In what part of *Ormond-market* is your stall?

A. The corner of the narrow row.

Q. Have you a house there?

A. We have one very convenient, near the stall.

Q. Did the prisoner lodge there?

A. He did.

Q. Did he lodge there since *May*?

A. He was not a lodger; but I gave him permission to sleep with an apprentice boy.

Q. What is his name?

A. *Michael Mack*.

Q. Your husband was ill at that time?

A. He was.

Q. Is he recovered?

A. He is.

Q. What was the matter with him?

A. A sore leg, a month before.

Q. Where did he lie?

A. In the next room to where the prisoner slept.

Q. Was it necessary for the prisoner to pass through that room?

A. Yes.

Q. Was your husband in bed at that time?

A. He was in bed from *Friday* till *Sunday* morning.

Q. What was your maiden name?

A. *Elizabeth M'Namara*.

Q. Are you a relation of the prisoner's?

A. Yes; a very distant one.

Q. How old is your apprentice?

A. About 17 or 18.

Q. Matters were in perfect tranquillity in *Ormond-market* that night as usual?

A. I heard there was a disturbance in *Thomas-street*; and I verily believe I was the first person who told the prisoner of it.

Q. Where was your apprentice at that time?

A. In the stall.

Q. Was he there when the prisoner first came?

A. He was.

Q. What time was that?

A. Half past six.

Q. Did he never quit the stall the whole of the night?

A. He did not.

Q. That

Q. That is his usual course ?

A. It is; and he was at home all day.

Q. Is it usual with him to stay at home the whole night, and never go out upon *Saturday*?

A. It is.

Q. How was it that you heard of the disturbance?

A. From people buying meat from me.

Q. At what time did they come?

A. About ten o'clock.

Q. Is it usual to sell meat so late as that?

A. It is; and till twelve.

Q. What did the people tell you?

A. They told me, there was a disturbance over the water.

Q. Did the prisoner hear it mentioned?

A. No.

Q. Had he no curiosity to enquire?

A. No.

Q. Nor the apprentice?

A. No.

Q. Were all the other stalls open at that time?

A. They were.

Q. Did any persons go from the market that night?

A. There did not.

Q. Did no butcher, or boy, go from the market to *Thomas-street* that night?

A. I never heard of them going.

Q. You had not heard of any other disturbance that evening?

A. No.

Q. Nor any shots fired?

A. No.

Q. Did you hear, that Mr. *Clarke* was fired at near *Ormond-quay*?

A. No.

Q. Where did the prisoner go to dress himself?

A. Up to my place.

Q. At what time did he leave it?

A. A little better than half after six:—he staid some little time in the stall, and then went to dress himself.

Q. From the time he went until he returned, what interval was there?

A. From half past six till half past nine.

Q. How

Q. How came you to be so precise?

A. I generally ask him what the hour is, as he carries a watch.

Q. Were candles lighted?

A. There were, a little before he came back.

Q. Had you any conversation after he returned?

A. We had, a little.

Q. Did he mention any thing of any disturbance?

A. No such thing.—He said he had gone from *Ormond-market* to *Diggers Street*.

Q. Who was the person gave you information of the disturbance?

A. I do not know—some people who were buying meat,

Q. Do you recollect any thing which you and the prisoner were talking of, after he returned?

A. No.

Q. At what hour did you shut up at?

A. Not till twelve.

Q. Then you were not alarmed?

A. No—I took no account of it.

Q. Do you recollect seeing any other at the market that night?

A. I saw Mrs. *McOwen*, who sells meat there.

Q. Is she here?

A. She is.

Q. Where did you see her?

A. She was at her own stall, opposite to mine, and the row is very small.

Q. Did you go up before or after Mrs. *McOwen*?

A. I left her behind me.

Q. Was she in the stall when the prisoner went up?

A. I cannot recollect.

Q. Did the prisoner or the apprentice boy go up first?

A. The prisoner did; for the apprentice did not go up till twelve.

Q. Had he his apron on?

A. He had not—he took it off—he never takes his apron when he goes to see his wife.

Q. Did you hear any fire of musquetry?

A. No; there is always such a noise in the market, that we could not hear.

Q. (By

Q. (*By the Jury*). You say, that you kept your stall open till twelve o'clock that night—Did you hear any drums beating to arms through the city?

A. No.

Q. Does the prisoner usually wear leather breeches?

A. He does.

Q. Had he not his apron on when he went from the market?

A. I am certain he had not; because he always cleans himself.

Anne McOwen,

Examined by Mr. MAC NALLY.

Q. Are you a married woman?

A. Yes.

Q. What business does your husband follow?

A. A cooper.

Q. Where does he live?

A. In *Liffey-street*.

Q. You keep a stall in the market?

A. I do, these six years.

Q. Do you recollect *Saturday* evening, the 23d of *July*?

A. I do.

Q. How near is your stall to Mrs. *Walsh's*?

A. Within four yards.

Q. Your stall is opposite to her's?

A. Yes.

Q. Could you see every thing which was going on there?

A. I could; and could hear every thing, if they spoke as loud as I am now.

Q. Do you know the prisoner?

A. I have seen him go back and forward there these three months, and his wife; and I have often spoke to him.

Q. Did you see him in the evening of the 23d of *July*?

A. I saw him on that night. In or about half past nine he came into the stall and sat down; and I went over and sat beside him, and began to talk to him.

Q. How long did you stay?

A. Till about eleven, when he left it. I kept my stall open till twelve, as is usual upon *Saturday* night.

No. 9;

E

Q. Where

Q. Where did the prisoner go?

A. I saw no more of him, and cannot say.

Cross-Examined by Mr. PRIME SERJEANT.

Q. Were there many people buying meat at your stall?

A. It was not a busy night, or I would not have had time to talk.

Q. How could you observe what was going on in *Walsh's* stall, while you were minding your own?

A. I was not watching her's in particular; but we are accustomed to joke with one another.

Q. The candles were lighted?

A. They were, a good while, before he came in.

Q. And when he came in, you looked at your watch?

A. No—but he has a watch, and we usually ask him what o'clock it is, by way of joke.

Q. How far from *Ormond-market* is it to *New Street*?

A. I cannot say.

Q. Would you walk it in a quarter of an hour?

A. That depends upon the manner of walking.

Q. Did you hear any shots fired that night?

A. No, I did not hear any thing of it, only from one woman, who came crying out—"Did you see my husband"—there is terrible work going on over the water,"—and I heard no more of it till next morning.

Q. Is *Ormond-market* a very refreshing place for a labouring man, who had been working all day?

A. I cannot say.—I did not go into any public houses.

Q. It is very good air for a man to refresh himself in?

A. It is not good air.

Q. Did you hear of any shots upon *Arran-quay* that evening?

A. No, I did not.

Q. (*By the Court.*) Where were you upon *Friday*, the 22d of *July*?

A. I do not know where I was—I was at *Kilmainham*.

Q. What were you doing there?

A. I was looking at *Guinness's* factory, having no business to mind.

Q. Did you ask any person what o'clock it was on *Friday*?

A. No.

Q. Where

Q. Where were you on *Thursday*?

A. At my stall.

Q. Did you ask any person what o'clock it was that evening?

A. I very often asked Mr. *Walsh*, or *Byrne*.

Q. Where were you last *Saturday* evening?

A. In my stall.

Q. Did you ask any person then what o'clock it was?

A. I do not recollect.

Q. What makes you so particular in remembering what passed upon the evening of the 23d. — You were not alarmed?

A. No, not alarmed.

Q. Was the market as busy as usual?

A. No: from about ten o'clock hardly any person went through it.

Q. Where was *Walsh* that night?

A. I cannot say.

Q. Then there was not much noise that night?

A. No.

Q. Was the market usually thronged at that hour upon other *Saturday* nights?

A. Very thronged.

Q. Did you see *Walsh* the next day?

A. I saw him the next day.

Q. Where?

A. He came down to his stall.

Q. You were intimate with *Walsh*?

A. I am.

Q. Where was he that night?

A. I cannot tell.

Q. Was it *Doran* you asked, what o'clock it was?

A. It was *Doran*.

Q. Was he dressed as usual?

A. He was.

Q. Was he in the same dress when he came home as when you saw him before?

A. He was.

Q. (*By the Jury*.) Is *Walsh* ill?

A. He has been ill twelve months with a hurt in his ankle, and is sometimes confined days to his bed.

Q. Did he appear in the stall that *Saturday* night?

A. He did not.

Q. As

Q. As the place was quiet, did you not hear shots fired?

A. No.

Q. Nor drums beat?

A. No.

Q. Nor any thing of the business?

A. Not till next morning, only from the yeomen going by.

Q. Do you recollect any person coming into the stall, and giving Mrs. *Walsh* an account of the matter?

A. I do not.

Q. Did you talk about the disturbance that night?

A. No, for I heard no more than what I tell you.

Q. (*By Mr. Prime Serjeant.*) Did not Mrs. *Walsh* tell you, that she had an account of it?

A. No.

Q. Was there any other person there?

A. There was another man and the apprentice boy.

Michael McNamara,

Examined by Mr. MAC NALLY.

Q. You are an apprentice?

A. Yes.

Q. To what business?

A. To *Walsh* of *Ormond-market*, a butcher.

Q. Do you know the prisoner?

A. I do.

Q. How long?

A. Four years.

Q. Where does he lie?

A. Generally in my master's house.

Q. Where does his wife live?

A. With Mrs. *Couzens*, in *Harcourt-street*.

Q. Do you remember the 23d of July?

A. Yes.

Q. It was on *Saturday*?

A. Yes.

Q. Where were you that day?

A. At my master's stall.

Q. Do you know where did the prisoner lie that night?

A. He was along with me.

Q. In

- Q. In whose apartment?
A. In *John Walsh's*.
Q. At what time did he go to bed?
A. About eleven.
Q. Can you take upon you to swear he was at home all night?
A. I can.
Q. Were you in the stall all the evening?
A. I was.
Q. At what time did he return from his work?
A. At half past six.
Q. How long did he remain before he went out?
A. I cannot say.
Q. Did you see him going out?
A. No.
Q. At what time did he come home?
A. At half past nine.
Q. Where did you see him when he came home?
A. In my master's stall.
Q. Where did he remain?
A. In that stall.
Q. How long?
A. Till eleven.
Q. Did you see Mrs. *McOwen*?
A. I did.
Q. Where?
A. In her own stall, and back and forward to ours.
Q. Did you see her there, while the prisoner was there?
A. I did.

Cross-Examined by Mr. MAYNE.

- Q. What relation are you to the prisoner?
A. I cannot tell; some distant relation.
Q. You are a relation of Mrs. *Walsh*?
A. Yes.
Q. The prisoner slept with you that night?
A. He did.
Q. At what time did you go to bed?
A. Between eleven and twelve.
Q. You are not certain?
A. No.

Q. Did

Q. Did you stay up later that *Saturday* night than upon others?

A. Yes, later than other nights in the week.

Q. But did you stay up later than on other *Saturday* nights?

A. No, not to the best of my knowledge.

Q. How long do you think the prisoner was in bed before you?

A. About an hour.

Q. What is your usual time of going to bed?

A. I cannot tell any certain time.

Q. He had slept there some time?

A. He did.

Q. What is his usual time of going to bed?

A. I cannot tell; about the usual time I go.

Q. You say, you remember the time he went to bed that night, can you mention the hour at which he went to bed upon any other night?

A. No; but to the best of my knowledge, that night he was not in bed till about eleven.

Q. And that is the night above all others, that you give an account of him; what was the reason of his being up later that night than usual?

A. He generally sits up every *Saturday* night, as we all did.

Q. Do you say, he staid up every *Saturday* night?

A. No.

Q. Can you say, at what hour, he went to bed the *Saturday* night before?

A. I cannot say.

Q. At what time did he come to the stall?

A. At half past nine.

Q. Where did you hear that?

A. I heard it from several.

Q. From whom?

A. From my mistress and others.

Q. When did you hear it?

A. I knew it from my mistress and the people about there.

Q. How did she know it?

A. I cannot say.

Q. (*By the Jury.*) Did you ask your mistress?

A. No.

Q. Then

Q. Then how came you to know so particularly?
 A. I cannot say, except its being the usual hour of the night.

Q. Was it that time you heard her say it was half past nine?

A. Yes.

Q. Was Mrs. *McOwen* there at that time?

A. I cannot tell—she was either in her own stall or ours.

Q. Did she ask the prisoner what o'clock it was?

A. No.

Q. Were you in the stall when the prisoner came in?

A. I was.

Q. Did you ask him what o'clock it was?

A. No.

Q. Did Mrs. *Walsh*?

A. I cannot say.

Q. Did Mrs. *McOwen* ask him?

A. Not that I know of.

Q. By your account the prisoner staid one hour and a half sitting in the stall, how do you know it was half past nine?

A. I knew it by the night.

Q. How soon after the prisoner came back were the candles lighted?

A. I cannot tell.

Q. Perhaps they were lighted when he came?

A. I cannot tell.

Q. You cannot tell whether the candles were lighted or not?

A. No.

Q. Did he bring any thing in his apron when he came back?

A. I cannot tell.

Q. Did you look into it?

A. No.

Q. Had he his apron on when he came back?

A. I cannot say.

Q. Was he in his common working dress when he came home at half past nine?

A. He had.

Q. What coloured dress had he?

A. I cannot say what is his common dress—he had a brown coat, and leather breeches.

Q. Did

Q. Did you see him at half past six?

A. I did.

Q. Was there any difference when he came at half past six, and when he came at half past nine?

A. There was.

Q. What was it?

A. I cannot tell.

Q. Have you a mind to tell, if you could?

A. I have.

Q. Do you swear you cannot tell?

A. I cannot, to be exact.

Q. You speak cautiously, perhaps you were busy?

A. Yes.

Q. Was it a busy night?

A. It was not a busy night—I cannot tell.

Q. Then it was like other nights?

A. No, it was busier than others.

Q. Was it like every other *Saturday* night?

A. I cannot tell.

Q. You cannot remember any other *Saturday* night; when the prisoner did any thing particular?

A. I cannot.

Q. Were you as busy upon that *Saturday* night as upon any other?

A. I believe so.

Q. Then when you speak of any thing particular that night, can you give any reason for it?

A. No.

Q. When did you hear there was a rebellion raging through the town?

A. In the latter end of the night about eleven o'clock.

Q. Who told you?

A. I cannot tell, there was a report in the market.

Q. Do you mean that there was a general report?

A. Yes.

Q. What was it?

A. A report that there were rebels and a disturbance through the town.

Q. Was it from men or women you heard it?

A. I cannot say.

Q. Where did you hear the disturbance was?

A. In *Thomas-street*.

Q. Was the prisoner gone to bed at the time?

A. I cannot say.

Q. And

Q. And you do not know, whether the prisoner heard of it that night?

A. I cannot tell.

Q. Did Mrs. *McOwen* know of it?

A. It was she told the prisoner of it.

Q. Then he was not gone to bed when she told him?

A. I cannot tell—I believe he was.

Q. Then was it in bed, she told him?

A. It was.

Q. Did you hear any observations made upon the report?

A. No.

Q. What was the report?

A. That there was a great disturbance in the town.

Q. How near is your stall to the street of *Ormond-quay*?

A. I cannot tell to the certain distance.

Q. Can you see down to the quay?

A. We can.

Q. How many stalls are between you and the street?

A. I cannot tell.

Q. You did not run down to the quay to learn what the rebellion was?

A. No.

Q. Nor did any other person there do so?

A. No.

Q. Now, how are you sure that was the night you were speaking of respecting the prisoner?

A. Because I recollect the night of the disturbance.

Q. Why, you heard nothing of the disturbance, till the prisoner went to bed, and how can you remember every thing so exactly—his dress and the hour of coming home—how do you remember the night?

A. I remember since the time he was taken.

Q. He slept with you on *Sunday* night?

A. He did.

Q. At what hour did he come home that night?

A. I cannot tell.

Q. He slept with you on *Monday* night?

A. No, he was taken on *Monday*.

Q. When did you first give an account of this—Did you ever tell any person what you could say?

A. I recollect it.

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Q. Did

Q. Did you tell any body?

A. I did—I told that he slept with me all that night.

Q. To whom did you tell it?

A. To my mistress.

Q. Did she ask you about it?

A. I told her of it.

Q. When did you tell her that?

A. When the prisoner was taken.

Q. Had you any conversation with the prisoner when you went to bed?

A. No.—He was awakened out of his sleep.

Q. What awoke him?

A. My mistress, to call him to eat his supper.—He was fast asleep.

Q. Was that the time she told him of the report?

A. It was.

Q. At what hour was that?

A. Twelve.

Q. Did you sup with them?

A. Yes; but I did not eat at the same table, because he sat up in the bed.

Q. Your mistress was there?

A. Yes.

Q. Was there any other friend?

A. No.

Q. Was there any discourse about the disturbance?

A. No.

Q. Did Mrs. *McOwen* get any thing for supper?

A. I cannot say.

Q. Did she tell the prisoner any thing of the matter?

A. No.

Q. Did you hear any shots fired?

A. No.

(*By the Court.*) You saw the prisoner when he came from his work?

A. I did.

Q. Had he an apron upon him?

A. I cannot say.

Q. (*By the Jury*) Do you recollect whether he had an apron upon him at half past nine?

A. I cannot tell.

Q. Had

Q. Had he at half past six?

A. I cannot tell.

Q. Does he generally wear an apron?

A. He does when at work.

Q. What kind of apron does he generally wear?

A. A white linen apron.

Julia Harvey,

Examined by Mr. MAC NALLY.

Q. In whose service do you live?

A. In Mr. Couzens's.

Q. He lives in Harcourt-street?

A. Yes.

Q. Where did he live upon the 23d of July?

A. In Digges-street.

Q. In what situation are you in the house?

A. Cook.

Q. Do you know the prisoner?

A. Yes.

Q. Do you know his wife?

A. Yes.

Q. Where did she live in July?

A. With Mrs. Couzens, in Digges-street.

Q. Did the prisoner often visit his wife there?

A. Very often.

Q. At what times?

A. Since he worked at the Castle, he came at half past six—before that he came earlier, and often dined.

Q. Did you see him upon the 23d of July?

A. I did.

Q. At what hour?

A. At seven o'clock.

Q. Where?

A. In Mrs. Couzens's kitchen, just after we dined.

Q. How long did he stay?

A. Till about nine—he remained two hours, and then went away.

Cross-examined by Mr. SOLICITOR GENERAL.

Q. You are well acquainted with the prisoner?

A. Yes.

Q. How

- Q. How long have you been with Mrs. *Couzens* ?
A. Five months.
Q. Has the prisoner's wife been there as long ?
A. Yes, and more ; she nursed two children.
Q. Has Mr. *Couzens* any man-servant ?
A. He has.
Q. Where is he ?
A. He is here, I believe.
Q. When did you see him ?
A. When I was coming in.
Q. When was it, that the prisoner was there, before that night ?
A. I believe he was there on *Friday*.
Q. Are you sure ?
A. No.
Q. At what hour did he come ?
A. The usual hour after leaving off work.
Q. At what hour did he come on *Friday*—You remember the time exactly upon *Saturday* ?
A. It was about half past six.
Q. And did not go away till nine ?
A. About nine.
Q. Did you look at the clock ?
A. No.
Q. Did you look at the clock upon that *Saturday* night ?
A. No ;—but my mistress came down to bury a bird, and that makes me remember it.
Q. Did you take a memorandum of the burial of the bird ?
A. No, but when I heard the prisoner was taken, I wondered at it he was so quiet a man.
Q. At what time was the bird buried ?
A. Between half after eight and nine.
Q. Did your mistress say what o'clock it was ?
A. No : but there was a lady in the house who looked at her watch to see what the hour was.
Q. You were in the room ?
A. No, but my mistress told me.
Q. She told you, that the lady pulled her watch out and said what o'clock it was ?
A. She did.
Q. Is your mistress here ?
A. No.

Q. Where

Q. Where is she ?

A. At home.

Q. Which would she or you gain most credit with the jury ?

A. I cannot say, but I regard my oath as much as she can.

Q. Who is the lady who was there ?

A. Mrs. *Siloe*.

Q. She had the watch ?

A. Yes.

Q. And your mistress had not ?

A. No, not at that time.

Q. And how came it that this lady pulled out her watch ?

A. Because she was ill, and there was a sedan chair to come for her, and she was uneasy.

Q. Your mistress saw the prisoner ?

A. Yes.

Q. And knew him ?

A. Yes.

Q. And had no objection to his going to the house ?

A. No, for he buried the bird for her.

Q. And put the head stone to it—he was the grave digger ?

A. He was.

Q. Was he dressed as usual ?

A. He was.

Q. What did you give him to take away in his apron ?

A. I observed no apron upon him.

Q. And he came from his work ?

A. I suppose so.

Q. And you never observed an apron upon him ?

A. No.

Q. When did you hear he was taken up ?

A. On *Monday*.

Q. At what time was he there again ?

A. He breakfasted there on *Sunday* morning.

Q. At what time ?

A. I cannot say—he came before I returned home—it was past nine.

Q. Was he there on *Sunday* evening ?

A. I cannot say.

Q. Where were you on *Sunday* ?

A. I do not recollect.

Q. Then

Q. Then probably it was *Friday* and not *Saturday* evening that you have been speaking of?

A. No, for there is a great difference between my work on those nights.

Q. When was the prisoner taken up?

A. On *Monday*.

Q. Do you recollect where he had been on the *Sunday*?

A. No.

Q. So you pretend to recollect what passed on *Saturday*, but you recollect nothing with respect to *Sunday*, though the prisoner was taken the next day?

A. I do not.

Conmor Kelly,

Examined by Mr. MAC NALLY.

Q. You are servant to Mr. *Couzens*?

A. I am.

Q. Is he in town or in the country?

A. He is in the country.

Q. How long since?

A. Since *Saturday* fortnight.

Q. Do you know the prisoner?

A. I do.

Q. How long?

A. Two years, his wife has been nursing for Mrs. *Couzens*.

Q. Is he in the habit of calling there to see his wife?

A. He is.

Q. Did you see him upon the 23d of *July*?

A. I did.

Q. Where?

A. At my master's house in *Digges-street*.

Q. At what hour?

A. At half past *six* I let him in.

Q. At what time did he go away?

A. About *nine*.

Q. Did your mistress see him?

A. I understood she did: I heard her say she did.

Cross-Examined by Mr. PLUNKET.

Q. Where have you been during the last hour?

A. In Court.

Q. You

Q. You heard the last witness examined?

A. I did.

Q. You heard every thing she said?

A. She said nothing but what was true; I heard her mention what I knew to be true.

Q. You were not anxious to hear what she said?

A. No, I was not; I have been attending these five days.

Q. Has Mr. Couzens any other man servant?

A. No, I am thorough servant.

Q. You let the prisoner in, you say?

A. Yes.

Q. He came fresh from the *Castle-yard*?

A. I cannot say.

Q. He laboured there?

A. He did.

Q. Did he not say, he came from the *Castle-yard*?

A. No, he did not.

Q. Was he in his usual dress?

A. I believe he was; I think he had a brown coat, and leather small-clothes.

Q. That was his common working dress.

A. I suppose so; it was a coat his former master gave him, and he wore it for decency.

Q. Did you remain all the evening in the kitchen?

A. I did not; I went up, and got the tea-things for my mistress, and my master was in the parlour.

Q. Was any body with him?

A. I do not recollect; though he is seldom without somebody.

Q. Were there any persons with your lady?

A. Mrs. *Siloe*, and Miss *Pope*.

Q. The former is a sickly woman?

A. She is.

Q. You called a chair for her?

A. No, I did not.

Q. What disorder did the bird die of?

A. None, for the cat killed it.

Q. Was it upon that day?

A. Yes, for the prisoner was getting worms for it, and the cat killed it, and it was buried in the garden.

Q. At what time was this?

A. About eight o'clock.

Q. Did

Q. Did your mistress go into the garden?

A. She did, and it was determined to bury it immediately.

Q. When did you see the prisoner again after this night?

A. On *Sunday* morning.

Q. At what time?

A. About *nine*, or something better.

Q. Had you heard of the disturbance before he came?

A. I did.

Q. Had you any conversation with him about it?

A. No; for I had been out in the evening, and heard the drum beat to arms.

Q. Did you talk to him about it?

A. I told him I heard the drum; he said he was sure there was; for upon coming to us he heard of Lord KILWARDEN's death.

Q. That was the first he heard of the disturbance?

A. It was, as I understood.

Q. Did he say he was much surprized at hearing it?

A. He was.

Q. Did you express any pleasure at hearing he got safe home?

A. No such thing.

Q. Then it was upon the next morning he first heard of the disturbance?

A. Yes.

Q. And not in the evening?

A. Not at all; because he told me, it was upon coming to us that morning, that he heard of it.

Q. Were you not surprized that he had not heard of it before, living in *Ormond-market*?

A. No, I was not, for I knew of it by going into *Grafton-street*, to Mr. *Wilkinson's*, to get a cap for my mistress.

Q. Where did the prisoner lodge?

A. At Mrs. *Walsh's*.

Q. Have you seen her?

A. I have seen her at Mrs. *Couzens's*.

Q. Does she wait on your mistress?

A. She comes to see the prisoner's wife.

Q. Have you seen Mrs. *M'Owen*?

A. I have.

Q. When?

Q. When?

A. Some days ago.

Q. Have you seen her within these few days?

A. No, not these few days.

Q. Did any thing pass with regard to what evidence you could give?

A. No such thing, only she used to ask me how the trials went on, expecting the prisoner would be tried.

Q. Do you know the apprentice boy?

A. I do.

Q. And you have talked with him?

A. Only to ask him what time the prisoner went home.

Q. Then you talked to them all about the evidence.— Can you say why your Mistress is not here?

A. If she thought it necessary she would come, for she has a regard for the prisoner, and every day asks something about him.

Prisoner's Counsel said, he would give directions, that Mrs. Couzens should be sent for.

David Courtney,

Examined by Mr. MAC NALLY.

Q. Do you know the prisoner?

A. I do.

Q. How long?

A. Since the 20th of *March*, 1794.

Q. Have you known him from that down to the present time?

A. I have.

Q. I presume you are acquainted with his general character?

A. I am.

Q. What character does he bear, as to affection to the Government of the country?

A. I cannot say any thing as to that.

Q. You never knew any thing as to his politics?

A. Never till this affair.

Q. Has he had the character of a peaceable man?

A. During the time he lived with me, till 1796, no man could conduct himself more quietly; he left me, and I could not tell the reason, but he wished to go to the country, as he said. I met him in 1800, and he said he

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was

was out of place; I told him I had not room for him;—he said he would labour, and I employed him till *May*, 1802, when I took him as an inside servant, and in *May*, 1803, I discharged him for drunkenness, and neglect in consequence of that.

Q. (*By the Jury.*) To what part of the country did he go when he left you?

A. To *Meath* or *Westmeath*.

Not cross-examined.

Joseph Blood,

Examined by Mr. MAC NALLY.

Q. You have a situation at the Castle?

A. I have.

Q. Was the prisoner recommended to you?

A. He was.

Q. By whom?

A. By Mr. *Courtney's* clerk.

Q. Do you know his general character?

A. I cannot say. I never heard any thing as to his affection for the Government. I understood he was honest.

Not Cross-examined.

Joseph Haughton, Esq.

Examined by Mr. MAC NALLY,

Q. Do you know the Prisoner?

A. I do.

Q. How long?

A. Several years; I cannot say what length of time: he was born in the county where my father lives.

Q. What was his general character, particularly as to his being peaceable, or otherwise?

A. As I have lived mostly in *Dublin*, I cannot say much; but in 1798, when the rebels went to attack *Clonsilla*, where my father was, *Doran* the prisoner was then servant to Mr. *Nangle*, and escaped out of a window in the house, and never stopped till he got across a bog to alarm my father and mother, my father happened to be at *Clonsilla*, as I said; but *Doran* told my mother, and gave her the first information of the approach of

of the rebels, and he got a conveyance for her, and the rest of the family to *Mullingar*: my father gave a certificate of this, and if it was necessary, I was to prove his handwriting; the prisoner's brother lives with my father, and he has an high opinion of him; he is a proper and well conducted man.

Q. (By the Court. Do you entertain the same opinion of the prisoner?

A. I have no reason to form an opinion only from what I have stated; I heard nothing to the contrary, until the prisoner was charged with this business.)

Mr. MAC NALLY, stated to the COURT the prisoner had no other witness to examine, but that *Mrs. Couzens* had been sent for, and in case of her arrival, he hoped the court would permit her to be examined.

Lord NORBURY. By all means; we will wait any reasonable time for her.

After waiting some time, *Mrs. Couzens* came into court, and was examined.

Mrs. Barbara Couzens,

Examined by Mr. MAC NALLY.

Q. You are the wife of *Mr. Couzens*, the Attorney?

A. I am.

Q. Do you remember the 23d July last?

A. I do.

Q. Pray, madam, do you remember the trifling circumstance of burying a bird?

A. I do, sir.

Q. It was on that day?

A. It was.

Q. You were present at its being put into the grave?

A. I heard it was—but was not present.

Q. Do you know *Doran*?

A. I do—my servant woman.

Q. I mean her husband—the prisoner; do you know him?

A. I do.

Q. Was he there that night?

A. He was; for I put the bird into his hand and made him bury it.

Q. Did

Q. Did you see him after in the course of that evening?

A. No, I did not—I was up stairs with some company.

Q. What are their names?

A. Mrs. *Silos*, was one—

Q. She is in an ill state of health?

A. Yes.

Q. There was a young lady also there?

A. Yes.

Q. Did the prisoner stay to bury the bird?

A. I am sure he did—they were not done their tea in the kitchen.

Q. Was it usual with the prisoner to drink tea with his wife at your house?

A. It was.

Cross-Examined by Mr. SOLICITOR GENERAL.

Q. Pray, madam, how was the prisoner dressed that evening?

A. In a brown coat.

Q. Do you recollect any other part of his dress?

A. I do not.

Q. Had he an apron upon him?

A. He had not.

Q. Can you safely say, he had not an apron?

A. I can—I can safely say, I never saw an apron upon him, when he came to my house.

William Harrow called again.

Q. (*By the Court.*) When you saw the people with pikes, you were standing in the alley?

A. Yes.

Q. You did not go from your father's door that evening?

A. I did not.

Q. You did not see a great number of persons at the end of the alley?

A. No.

Q. Who drew your examinations?

A. Mr. *Kemmis*.

Q. Is that your name and hand-writing?—(*Shewing the witness his information.*)

A. It is.

Q. Did

Q. Did you read your examination before you swore it?

A. No; Major *Sirr* read them.

Mr. SOLICITOR GENERAL. My Lords, under the circumstances of this case, we think it our duty to say, that there appears that kind of doubt which prevents us from pressing the case further against the prisoner.—We think the jury may with propriety discharge their duty by acquitting the prisoner, rather than by convicting him.

Lord NORBURY. I think it right also to say, that the officers of the crown directed the attention of the court to a comparison of the information sworn by the boy with his evidence upon the table.—By the former, he does say, that he saw several persons to the number of 300 marching up *New-street*, which is not consistent with what he has sworn now.—Possibly this may arise from mistake at the time he swore the informations, or at the present. But under these circumstances, and the identity of the prisoner depending upon the single testimony of this boy, and the officers of the crown having candidly given up the case, we think the Jury should acquit the prisoner.

Verdict.—*Not Guilty.*

The counsel for the crown said it was but right to observe, that nothing had appeared to impeach the moral character of the boy.

Mr. MAC NAALLY said, that the court and the counsel for the crown would do him the justice to recollect, that he did not attack the boy's credit upon any other ground than that of mistake.

The Jury expressed their satisfaction of the pure intentions of the witness, but said, they thought it possible he might be mistaken as to the prisoner's person.

Mr. MAC NALLY then said, the prisoner was willing to take the oath of allegiance.

But the court did not require it, and he was instantly discharged.

Counsel for the Crown.

Mr. Attorney General,
Mr. Prime Serjeant,
Mr. Solicitor General,
Mr. Plunket,
Mr. Mayne,
Mr. Townsend,
Mr. Ridgeway,
Mr. O'Grady.

Crown Solicitors,

T. and W. Kemmis.

Counsel for the Prisoner.

Mr. Mac Nally.

Agent.

Mr. L. Mac Nally.

A
R E P O R T

OF THE
PROCEEDINGS

IN

Cases of High Treason.

SPECIAL COMMISSION.

Saturday, 10th September, 1803.

Judges present:—Lord NORBURY, Mr. Justice FIMUCANE, Mr. Baron GEORGE, and Mr. Baron DALY.

Thomas Donnelly, Nicholas Farrell, Laurence Begley, and Michael Kelly were put to the bar.

They had been arraigned on *Saturday*, the 3d of *September*, upon the following indictment :

County of Dublin, } THE Jurors of our Lord the
to wit. } King upon their oath present, that
Thomas Donnelly, late of *Thomas-street*, in the city of
Dublin, and in the county of the city of *Dublin*, yeoman,
Nicholas Farrell, late of *Thomas-street* aforesaid, in the
No. 10. B city

city of *Dublin*, and in the county of the city of *Dublin*, yeoman, otherwise called *Nicholas Tyrrell*, *Laurence Begley*, late of *Thomas-street* aforesaid, in the city of *Dublin*, and in the county of the city of *Dublin*, yeoman, otherwise called *Laurence Bayly*, *Michael Kelly*, late of *Thomas-street*, in the city of *Dublin*, and in the county of the city of *Dublin*, yeoman, subjects of our said Lord the now King, not having the fear of God in their hearts, nor weighing the duty of their allegiance, but being moved and seduced by the instigation of the devil, as false traitors against our said Lord the now King, their supreme, true, lawful, and undoubted Lord, the cordial love, and true and due obedience which every true and dutiful subject of our said Sovereign Lord the King towards him, our said Lord the King, should bear, wholly withdrawing and contriving and intending the peace and common tranquillity of this kingdom to disquiet, molest, and disturb, and the government and constitution of this realm to change, subvert, and alter, and our said Lord the King from the royal state, title, honour, power, imperial crown, and government of this kingdom to depose, and deprive, and our said Lord the present King to death and final destruction to bring and put, they the said *Thomas Donnelly*, *Nicholas Farrell*, otherwise called *Nicholas Tyrrell*, *Laurence Begley*, otherwise called *Laurence Bayly*, and *Michael Kelly*, on the 23d day of *July*, in the 43d year of the reign of our said Lord the King, at *New-street* aforesaid, in the county of *Dublin* aforesaid, with force and arms, falsely, wickedly, and traitorously did compass, imagine, and intend our said Lord the King, then and there their supreme, true, and lawful Lord, of and from the royal state, crown, title, power and government of this realm to depose, and wholly deprive, and our said Lord the King to kill and put to death; and that to fulfil perfect and bring to effect their most evil and wicked treason and treasonable imaginations and compassing aforesaid, they the said *Thomas Donnelly*, *Nicholas Farrell*, otherwise called *Nicholas Tyrrell*, *Laurence Begley*, otherwise called *Laurence Bayly*, and *Michael Kelly*, as such false traitors as aforesaid, on the said 23d day of *July*, in the 43d year of the reign of our said Lord the King, at *New-street* aforesaid, in the county of *Dublin* aforesaid, with

with force and arms, falsly, maliciously, and traitorously did conspire, confederate, and agree together, and to and wish each other, and to and with divers other false traitors, whose names are to the jurors aforesaid unknown, to raise, levy, and make a public and cruel insurrection, rebellion, and war against our said Sovereign Lord the King, within this kingdom.

And afterwards, to wit, on the said 23d day of July, in the 43d year of the reign of our said Lord the King, with force and arms, at *New-street* aforesaid, in the county of *Dublin* aforesaid, the said *Thomas Donnelly*, *Nicholas Farrell*, otherwise called *Nicholas Tyrrell*, *Laurence Begley*, otherwise called *Laurence Bayly*, and *Michael Kelly*, as such false traitors as aforesaid, in further prosecution of their said treason and treasonable purposes aforesaid, did arm themselves with, and did bear and carry certain weapons, called pikes, with intent to associate themselves with divers other false traitors, armed with guns, swords, and pikes, whose names are to the said jurors unknown, for the purpose of raising, levying, and making insurrection, rebellion, and war against our said Lord the King, and of committing and perpetrating a cruel slaughter of and amongst the faithful subjects of our said Lord the King within this kingdom.

And that afterwards, to wit, on the said 23d day of July, in the said 43d year of the reign of our said Lord the King, with force and arms, at *New-street* aforesaid, in the county of *Dublin* aforesaid, the said *Thomas Donnelly*, *Nicholas Farrell*, otherwise called *Nicholas Tyrrell*, *Laurence Begley*, otherwise called *Laurence Bayly*, and *Michael Kelly*, as such false traitors as aforesaid, in further prosecution of their treason and treasonable purposes aforesaid, with a great multitude of persons, whose names to the jurors are unknown, to wit, to the number of one hundred persons and upwards, armed and arrayed in a warlike manner, to wit, with guns, swords, and pikes, being then and there unlawfully and traitorously assembled, and gathered together against our said Lord the King, did levy, ordain, and make public war against our said Lord the King, against the duty of the allegiance of them the said *Thomas Donnelly*, *Nicholas Farrell*, otherwise called *Nicholas Tyrrell*, *Laurence Begley*,

ley, otherwise called *Laurence Bayly*, and *Michael Kelly*, against the peace of our said Lord the King, his crown and dignity, and contrary to the form of the statute in such case made and provided.

And the said jurors of our said Lord the King upon their oath, do further present, that the said *Thomas Donnelly*, *Nicholas Farrell*, otherwise called *Nicholas Tyrrell*, *Laurence Begley*, otherwise called *Laurence Bayly*, and *Michael Kelly*, being subjects of our said Lord the now King, and not having the fear of God in their hearts, nor weighing the duty of their allegiance, but being moved and seduced by the instigation of the devil, and entirely withdrawing the love and true and due obedience, which every subject of our said Lord the King should and of right ought to bear towards our said Sovereign Lord the King, and wickedly devising, and intending to disturb the peace and public tranquillity of this kingdom, on the 23d day of *July*, in the 43d year of the reign of our said Lord the King, with force and arms, at *New-street* in the county of *Dublin* aforesaid, unlawfully, maliciously, and traitorously did compass, imagine, and intend to raise and levy war, insurrection, and rebellion against our said Lord the King within this kingdom; and in order to fulfil and bring to effect the said traitorous compassing, imaginations, and intentions last-mentioned of them, the said *Thomas Donnelly*, *Nicholas Farrell*, otherwise called *Nicholas Tyrrell*, *Laurence Begley*, otherwise called *Laurence Bayly*, and *Michael Kelly*, they the said *Thomas Donnelly*, *Nicholas Farrell*, otherwise called *Nicholas Tyrrell*, *Laurence Begley*, otherwise called *Laurence Bayly*, and *Michael Kelly*, afterwards, to wit, on the 23d day of *July*, in the said 43d year of the reign of our said Lord the King, with force and arms, at *New-street* aforesaid, in the county of *Dublin* aforesaid, with a great multitude of persons, whose names are to the jurors unknown, to a great number, to wit, to the number of one hundred persons and upwards, armed and arrayed in a warlike manner, to wit, with swords, guns, and pikes, being then and there unlawfully, maliciously, and traitorously assembled and gathered together against our said Lord, the now King, most wickedly, maliciously, and traitorously did ordain, prepare, levy, and make public war against our said

said Lord the King, their supreme and undoubted Lord, contrary to the duty of the allegiance of them, the said *Thomas Donnelly*, *Nicholas Farrell*, otherwise called *Nicholas Tyrrell*, *Laurence Begley*, otherwise called *Laurence Bayly*, and *Michael Kelly*, against the peace of our said Lord the King, his crown and dignity, and contrary to the form of the statute in such case made and provided.

The prisoners severally pleaded *Not Guilty*;—and being asked were they ready for trial, answered, that they would be ready on *Monday* the 5th.

On *Friday*, the 9th of *September*, they were brought up for trial, when *Michael Kelly* said he would not be ready for his trial till the next day, and thereupon the ATTORNEY GENERAL consented, that their trials should stand over till the next day.

Accordingly they were this day, *Saturday*, the 10th of *September*, put to the bar again, said they were ready for trial, and consented to join in their challenges.

The following jury was then sworn, after two persons were set by on the part of the Crown—one challenged by the prisoners for want of freehold—and three were challenged peremptorily.

William Pemberton,
George Cuppaidge,
Robert Walker,
James Cuppaidge,
Daniel Sullivan,
Thomas Macready,

Arthur Keene,
Charles Mulvany,
Bennet Dugdale,
William Davis,
Anthony Davis,
Richard Browne.

The prisoners were given in charge.

Mr. O'GRADY opened the indictment.

Mr. ATTORNEY GENERAL.

My Lords, and Gentlemen of the Jury,

It appears from the indictment against the prisoners, which has been read by the Clerk of the Crown, that they stand charged with the crime of High Treason.—
Gentlemen,

Gentlemen, that charge is grounded upon two distinct species of Treason, one for compassing and imagining the death of the King, and the other for levying war against him.—This crime is constituted by the traitorous imagination of the heart, the moment it conceives the design—in the language of the law, the moment a man compasses and imagines the death of the King, which means any alteration by force of the laws, constitution, and government of the country, he is guilty of the crime of High Treason. But it requires, that the traitorous imagination of the heart should be made known by some visible and outward act, which will demonstrate to any body the intention of the man.—This is called in the law; *an overt-act*; and is in itself but evidence of the crime of Treason, the greatest which a subject can commit, whatever the nature of the overt-act may be, or however they may differ in their degree of atrocity.—For the nature of the evidence alters not the guilt of the party accused; for instance, in this indictment, it is attributed to the prisoners, that they armed themselves with pikes for the purpose of associating with other false traitors to alter by force the law and government of the kingdom.—The death of the King must be supposed necessary to result from the successful execution of such a design; therefore that single act, being an overt-act of this species of treason, is sufficient in itself, if it be clearly proved to have been done with an intent to alter the government and constitution by force, is as direct evidence of the crime of Treason, as if we had specifically laid, as an overt-act, the death of any of the persons who were unfortunately murdered during the insurrection.

You, Gentlemen, know that no atrocities were committed in your county; they were all confined to the city, but the moment we attach this crime upon any man in the county, that he armed himself with a pike, the same weapon that was used in the city, and that he marched out at the same hour in which the disturbances began, you are to consider whether he did so for the purpose of joining other false traitors against the King and government, and you are to collect from all the circumstances, whether he promoted the general design.—If you believe, that this person accused, took up the pike

pike with that intension, ~~every act~~ which was done in *Thomas-street* will be evidence against him, although he did not individually ~~make any part in the transactions.~~—When a furious and lawless mob collect together for any barbarous purpose, it falls to the lot of few to be actors in it; but every person is guilty in the eye of the law, if he be voluntarily present, aiding, and supporting those who commit the fact; for if they were not so present, the few who are actually employed, would not pursue their schemes, they derive aid and encouragement from the numbers who attend.

Gentlemen, I call your attention to these facts, because you will have nothing to do, but first to Enquire whether there existed in the city a treasonable insurrection and rebellion; and your next object will be, to enquire how far the prisoners at the bar participated in it. It is not necessary, that they should be guilty of any one atrocity committed on that evening; and even if you should be of opinion, that they did not originally know the design; yet, if you shall be of opinion, that these persons afterwards engaged in the traitorous conspiracy, and that they armed themselves with pikes, and appeared in the open streets, aiding those who were prosecuting the rebellion, I beg leave to say, under the direction of the Court, that it will be your unbounded duty to convict them;—If, on the other hand, we shall not identify them, or that you shall have any doubt on the case, as to their intention or conduct, you will acquit them; and I trust that we shall not this day be amused with those attempts at *obscure*, which have taken up so much time, because in this case the prisoners were taken at the very hour when the rebellion was raging. I shall not anticipate any further, what their defence may be; if they have any, you will give them the full benefit of it; you will attend to the evidence which they may adduce, and not suffer your judgments to be warped by any thing which has happened, nor by the convictions which have hitherto taken place;—you will do your duty to your King and country, by pronouncing such verdict, as may be wholesome to the public and satisfactory to yourselves.

Edward

Edward Wilson, Esq.

Examined by Mr. PLUNKETT.

After giving the same account of the transactions in *Thomas-street*, as upon the former trials, the witness proceeded:

I called upon Mr. *Bell*, who had a guard, and we placed sentries, and patrolled down the road towards *Harold's-cross*.

Q. Was that in the county?

A. Yes.

Q. What time was this?

A. About ten o'clock.

Q. Were any prisoners brought to you?

A. In a short time the watchmen brought me four men.

Q. Look at the prisoners?

A. These are the very four men: they were brought in custody and four pikes also. I ordered them into the watch-house, and I went in shortly after, and finding they were countrymen, I said to them—"You are countrymen—you are from *Naas*."—One of them said, "Yes."—I am not sure by which of them it was.

Q. Was it in the hearing of the others?

A. It was.

Q. (*By the Court.* Did that one say, *he* was from *Naas*;—or did he answer for all?

A. He answered for all; and I took it as the answer for them all.)

Q. Proceed to state what passed?

A. I asked them separately, where they got the pikes?—I asked the little fellow, *Farrell*, first; he said he got his pike in *Thomas-street*.—*Bayly* also said he got his there—and *Donnelly* said he got his pike in *Thomas-street*, but *Kelly* said he had no pike at all.

Q. Then *Kelly* was the only one who denied having a pike?

A. He was.

Q. Do you recollect who the watchmen were?

A. *John*

A. *John Monk* was one—and *Walsh* and *Dove* and *Leeson*—there were some others.

Q. At what time were the prisoners brought in custody?

A. Sometime after ten; I suppose twenty minutes.

Q. (By the Court.) Where was it?

A. In *New-street*.

Q. Is that in the county of *Dublin*?

A. It is, my lord.)

Q. How long was this after the firing upon your party in *Dirty-lane*?

A. It might be an hour—or an hour and ten minutes after.

Q. Had you passed through *New-street* before that time?

A. I came into *New-street* through *Black-pits*, by *Malpas-street*.

Q. Did you see any body of people assembled there?

A. No.

Q. Do you know whether any outrages were committed in *New-street* before that?

A. I know that some of the watchmen were taken and had made their escape.

Q. (By the Court.) Were you present?

A. No, my Lord.)

COURT. Then that is not evidence.

Q. What happened after the prisoners were taken?

A. I charged them with having pikes—and I remained on duty and took others.

Q. But after the prisoners were taken were any outrages committed?

A. It was a scene of warfare almost the whole night—we were firing shots, and taking prisoners—but I did not charge any with having pikes but these persons.

Q. Did they make any excuse to you for coming into town?

A. Not on that night; but they did in the *Prevot* afterwards.

Q. What was it?

No. 10.

C

A. *Donnelly*

A. *Donnelly* and *Farrell* said they came in to buy waistcoats and stockings:—they said they worked with *Mr. Clarke* of *Palmerstown*, and were met by a body of men in *Thomas-street*, and pikes were put into their hands.

Q. Did *Begley* give any account?

A. He did, a very long one—that he was sworn in a long time before, and gave a long story of himself.

Q. (*By the Jury.* What do you mean by his being sworn?

A. Sworn to destroy the constitution.)

Mr. MAC NALLY. Had you held out any threat or promise to induce these acknowledgments?

A. There was not by me, or in my presence:—there certainly was a magistrate in the place before I got there.

Q. Who was the magistrate?

A. *Mr. Bell*.

Q. Did he make any promise?

A. Not in my presence.

Mr. PLUNKET. Proceed, and tell what passed.

A. *Begley* told me he was an hostler in *Queen's-street*, at the *Sun-inn*.

Q. (*By the Court.* Have you any reason to think there was any promise or inducement held out by *Mr. Bell*?

A. *Mr. Bell* told me not.

Q. Were they in terror?

A. They certainly were in terror, for they fell upon their knees, and begged that they might not be hanged immediately.)

Mr. PLUNKET. Was there any circumstance to excite their terror, save their being prisoners, and charged with such a crime.

A. Nothing more but a consciousness of the crime, being caught in the fact.

Lord NOBURY. I look upon the law as settled.—If the terror, or other impression upon the prisoners' mind be

be created by the person seeking the discovery, or holding out the inducement, it is not competent to enquire into the confession. But if a disclosure be made from a sense of the party's own guilt, it is not controverted, that the evidence is admissible.

Mr. MAC NALLY. My Lord, my examination went to that.

Mr. Justice FINUCANE. There is one question as to the admissibility of the evidence, and another as to the weight it may have.

The Witness. There is one circumstance I should mention, as it shews they were not ill-treated.—I saw them drinking, and was apprehensive they had got spirits, but, upon examining, found it was milk.—I asked them, where they got it, and was told it was my servant girl who gave it to them.—I said to them, “you would have piked me some time ago, and my girl gives you milk.”

Q. You have mentioned, that Begley said, he was an hostler in *Queen's-street*. Do you know the situation of *Thomas-street*, *Queen's-street* and *New-street*?

A. I do.

Q. Would *New-street* be the direction from *Thomas-street* to *Queen's-street*?

A. Not at all—it is quite the opposite way.—*Begley* told me he knew in the morning that the rising was to take place that night, and that he was to join it.

Q. (*By the Court*. You mentioned that one of the prisoners said he came from *Naas*—and you took that to be the answer of them all;—yet two of them said, they were workmen to Mr. *Clarke*?

A. One of them said, “Yes”—to my question, “Whether they were not from *Naas*,”—I rather think it was *Kelly*.)

Q. What more did the hostler say?

A. He said he knew of the rising, and that there were several messengers back and forward:—he mentioned one man who lived in *Thomas-street*, and another in *High-street*.

Q. By

Q. (*By a Juror.* Did he mention that he was to join?

A. He said, he was sworn to join it.

Q. Did it appear at what time he was sworn?

A. A considerable time.)

Q. (*By the Court.* Was it a year?

A. I rather think not.—He mentioned the man who swore him; and also the signal by which they would know one another.)

Q. (*By a Juror.* Do you think the prisoner would have committed himself to you in that way, if he did not expect favour from it?

A. I rather think he might have expected favour, for I did not think he was such a fool.)

Q. (*By the Court.* Did you offer or promise him any favour?

A. No.

Q. Did Mr. Bell?

A. No:—it was not necessary, being caught in the fact, to ask them any more questions, as I thought it might appear to be entrapping them.)

Q. What was the signal which was told you?

A. First to ask—"Are you ready;"—The answer was—"I am determined."

Q. The two other prisoners said, they lived at Mr. Clarke's;—was New-street the way to Palmerstown from Thomas-street?

A. By no means—it is quite opposite.

Q. (*By the Court.* These two said they were from Palmerstown—that militates against what you said, that they said they were from Naas?

A. When I asked them, were they from Naas?—one, who, I think, was Kelly, answered, "Yes.")

Q. (*By the Jury.* Did you consider that as the answer of them all?

A. At the time I did; but afterwards I found from each of them where they came from.)

Q. (*By Mr. PLUNKET.* What did Kelly say?

A. He denied having a pike.

Q. Did

Q. Did he say where he came from?

A. He said from *Noor*.

Q. Did he say any thing more?

A. No.)

Cross-examined by Mr. MAC NALLY.

Q. How many watchmen brought these men to you?

A. Eight or ten.

Q. Were there more than seven or eight?

A. Yes.

Q. When they were brought to you, had they pikes?

A. The watchmen had the prisoners by one hand, and the pikes in the other.

Q. All you know is, that these men at the bar were brought in prisoners?

A. They were brought to me on the road, and the watchmen said, "Here are men taken with pikes, with pikes in their hands."—One of the men, *Kelly*, said, "he had no pike."—I asked them no questions on the road, till they were put into the watch-house—but there were four pikes brought with them.

Q. Mr. *Bell* is a magistrate of the county?

A. He is.

Q. He had private conversations with some of these men before you went in?

A. He was taking down a confession in writing from *Begley* when I went in.

COURT. We cannot receive any evidence of that.—Therefore what was said by *Begley* must be thrown aside.

Q. By Mr. MAC NALLY. Do you say, that *Kelly* was brought in with the other prisoners?

A. They were brought in almost instantly—I think together—they were brought in by the same party.

Q. Call to your recollection, whether it was not some time after three men were brought in, that *Kelly* was brought in?

A. No.

Q. What space of time was there between the bringing in of the four prisoners?

A. Not half a moment.

Q. But

Q. But there was some space of time?

A. I think not even what I mentioned, because I think they were brought together.

Q. (By the Jury. You mentioned, that *New-street* was not the road from *Thomas-street* to *Palmerstown* and *Naas*.—But supposing them to have been compelled to take pikes, was not *Thomas-street* their direct road from *Palmerstown* and *Naas*?

A. That would depend upon the part of the town they were going to.)

Q. By Mr. MACNALLY. You heard that some respectable people were compelled to take pikes?

A. I heard one gentleman say so upon the table.

Q. (By the Jury. When these four men were brought to you, did they appear to be brought in as separate persons, or as one party?

A. As one party.)

Lieut. Coultman examined.

Gave the same account of the Depôt as upon the former trials—Vid. No. 1. *Kearney's case*, page 48.

Serjeant Thomas Rice

Proved the proclamation as before—Vid. same case, page 54.

Lieut. Douglas examined.

Gave the same evidence as before.—Vide same case, page 59.

He said, that the barrack upon the *Coombe* is in the county of *Dublin*;—that one half of the street there is in the county, and the other half in the city;—that one half of the front division of his men was in the county, and the remaining half in the city.

John Mank, examined by Mr. MAYNE.

Q. Are you in any employment?

A. One of the watchmen.

Q. Of what division?

A. New-

A. *Newmarket on the Coombe.*

Q. Were you upon duty on the night of the 23d of July?

A. I was.

Q. Was there any peace-officer with you?

A. There was a constable.

Q. Do you know Mr. *Wilson*?

A. I do—he is chief peace-officer.

Q. How many of you composed the guard that night?

A. There were nine upon the patrol.

Q. Had you any arms?

A. We had our watchmen's poles.

Q. What patrol did you go?

A. From the watch-house down towards the *Puddle* and back again.

Q. At what time was this?

A. We began a little after nine, and continued from that till morning.

Q. You were not there before that time?

A. Mr. *Wilson* brought me out, and I was not at *New-street* before nine.

Q. Who sent you out upon the patrol to *New-street*?

A. Mr. *Wilson*.

Q. Look at the bar, and see if you know the prisoners?

A. The man in brown is the man I laid hold of.

Q. What is his name?

A. *Rally*.

Q. (By the Court. You laid hold of him in the course of the search?)

A. Yes.)

Q. Where was it you laid hold of him?

A. It was not far up—it was near the *Long-lane*, facing down towards the *Puddle*.

Q. (By the Court. How far was it from the *Puddle*?)

A. I cannot rightly judge.

Q. It is a good length?

A. I cannot tell the distance.

Q. The *Puddle* was further off?

A. It was.

Q. Is

Q. Is the place where you took Kelly in the county of Dublin?

A. It is, I believe.

Q. Had Kelly any thing with him at the time?

A. He had, Sir.

Q. What?

A. He had a pike.

Q. How soon after your going out upon the patrol, which you say was after nine, did you find the prisoner?

A. Between ten and eleven.

Q. Can you form a judgment more particularly, whether it was nearer to ten than eleven?

A. I cannot say how much it was after ten, or how much it wanted of eleven.

Q. Which way was the prisoner's face when you took him?

A. His face was for the city.

Q. Did you come behind him?

A. No---We were going up, and met him coming into town.

Q. (By the Court. Was he faced towards the Court?)

A. He was.)

Q. Was it dark at that time?

A. It was.

Q. Was it very dark?

A. It was by the whiteness of the poles we discovered him;---he was at one side of the street and we were at the other.

Q. Do you mean the whiteness of the pike-handles?

A. Yes.

Q. Was the prisoner alone, or was he with others?

A. He was with others.

Q. Do you know how many were with him?

A. When I laid hold of him, there was another close with him, and had a pike, and he dropped it and jumped into the middle of the street, and was seized immediately.

Q. By the rest of the patrol?

A. Yes, Sir.

Q. Do you know who that other was?

A. I cannot say :---there were four of them altogether.

Q. Was

Q. Was the man who was taken in the middle of the street one of the four ?

A. He was :—there were four taken in all, but I have nothing to say to any of them, but the one I laid hold of.

Q. Were they all four taken together ?

A. They were.

Q. At the same place ?

A. Yes.

Q. (By the Court. Had the rest of them pikes ?

A. They had---there were four pikes.)

Q. To what place were they brought ?

A. To the watch-house, where Mr. Wilson had the command.

Q. Did you take them immediately there ?

A. We did.

Q. Were they going fast, or slow, when you met them ?

A. They were going pretty smart.

Cross-examined by Mr. MAC NALLY.

Q. Did the man make any resistance when you laid hold of him ?

A. No, not at all.

Q. He immediately submitted ?

A. He did ; as soon as I laid hold of him, he dropped the pike.

Q. He did not call out for assistance ?

A. He did not.

Q. He was perfectly quiet ?

A. He was.

Q. Did he not seem well pleased to get into your custody ?

A. I cannot say for that.

Q. Was not his conduct such as that of a man who was forced ?

A. He might be forced for aught I know ; the man said he was forced, when I asked him how he came by it.

Q. (By the Jury. Are you certain he had a pike when you seized him ?

No. 10.

D

A. He

A. He had, and dropped it and stood still.

Q. In what position had he the pike?

A. Trailing—not touching the ground.

Q. Were there any other persons there but the four?

A. No, Sir—When I took this man, I saw the second, and the four were taken.

Q. By Mr. MAC NALLY. Did you not hear there were many pikemen out that night?

A. I heard the firing at the *Goombe* a little before that.

Q. If he had made a noise, would not others have come to his assistance?

A. I do not know:—but with the weapons they had, if they worked their passage, they might beat us nine.

Q. (By the Court. You were nine in number, and had poles, and there were only four of them?

A. But our poles were not half the length of theirs—if they met us in the middle of the street; but what was against them, we came close upon them, and against a wall, so that they could not use their pikes.)

Q. (By the Jury. You say they were coming into town?

A. They were.

Q. Had you any reason to think they were so high as the Circular-road?

A. I think not—because Mr. Bell's guards were across the street there.

Q. There are many other passages into the street?

A. There are.

John Leeson, examined by Mr. ATTORNEY GENERAL.

Q. What are you?

A. I was a weaver reared.

Q. What are you now?

A. A watchman at present.

Q. You were one of the nine, whom the last witness expressed an apprehension might be beat by four men?

A. Yes.

(This witness appeared a very old feeble man.)

Q. Pray,

Q. Pray, give me an account of what happened?

A. Mr. *Wilson* sent me out that night, with the rest of the party, to patrol from *New-street*, and at half past ten we met four of these men and brought them in prisoners.

Q. Had you any assistance in taking your man?

A. I gave him up to the guard, and they put him into the room.

Cross-examined by Mr. MAC NALLY.

Q. They went quietly with you?

A. They did.

Q. (*By the Jury.* Would you know the man you took?

A. To the best of my knowledge I would.

Q. Point him out?

A. To the best of my knowledge, that is the man, (*Farrell.*)

Q. Had he a pike?

A. He had not—there was a pike near him upon the ground, but I did not see him with a pike in his hand.

Q. *By Mr. ATTORNEY GENERAL.* Did you identify him upon the *Monday* after in the *Prevôt*?

A. I did; but since that time he went out of my mind—I never saw him before that night, or after *Monday*, till now.

Q. Did you identify him positively in the *Prevôt*?

A. Not positively—I said to the best of my knowledge, he was the man.

Q. Are you positive, that the man you took, you delivered up to Mr. *Wilson's* guard?

A. That is the man to the best of my knowledge.

Q. But are you positive, that the man you took was delivered by you to the guard?

A. I am.

Q. Where was the pike?

A. On the ground, near him.

Q. What did you say to him?

A. I asked him about the pike—he said, he met a crowd in *Thomas-street*, and was obliged to go with them, through fear of his life.

Q. Did

Q. Did he say any thing about being obliged to take a pike?

A. I cannot recollect.

Q. Did your party bring in more than four prisoners that night?

A. They did not.

Q. How many pikes did you bring in?

A. Four pikes.

Walter Byrne, examined by Mr. PLUNKET.

Q. Were you of the party sent to patrol by Mr. Wilson on the night of the 23d of July?

A. I was.

Q. You are a watchman?

A. I am.

Q. Was Leefern along with you that night?

A. He was.

Q. And William Dove?

A. Yes.

Q. And Monk?

A. Yes, and five more.

Q. Did you seize any prisoners?

A. We did.

Q. How many?

A. Four.

Q. Were they together, or in separate parties?

A. I believe they were together—for in the bliffle, we made what shift we could to seize them.

Q. As one party?

A. Yes.

Q. At what hour was it?

A. Between ten and eleven.

Q. Had they any arms?

A. They had four pikes.

Q. Do you mean to say, that each of the four men had a pike?

A. They brought in four pikes.

Q. But are you certain they each had a pike?

A. I can be certain for the man I brought in myself.

Q. Point him out?

A. That is he, Begley.

Q. Are

Q. Are you positive that man had a pike when you took him?

A. He had.

Q. (By the Court. Can you speak as to the others?

A. I can be certain only for the man I took.)

Q. In what manner had he his pike?

A. He had it slung in his hand.

(The witness was desired to describe the manner, by holding a stick in the same way,—which he did, by holding it in a trailing position.)

Q. Did you deliver that man a prisoner to any person?

A. I brought him off, and left him at the watch-house door.

Q. In whose custody?

A. I left him in the watch-house.

Q. Who was there?

A. Mr. Wilson was there.

Q. Were the others brought in at the same time?

A. They were, for I was the last.

Q. How many pikes were brought in?

A. Four.

Q. Were these pikes got by you and the party at the same time?

A. They were.

Q. At the time you took the four prisoners, and got the four pikes, were there any other persons near them?

A. We did not see any more than the four.

Q. Look at the man at the bar of the name of Farrell?

A. I have no say to him.

Q. He was not taken by you?

A. No.

Cross-examined by Mr. MAC NALLY.

Q. Were any of the pikes taken from the ground?

A. They might by some others of the party; I only took care of the man I took myself.

Q. It was very dark?

A. It

A. It was dark.

Q. You could not see any length upon the road, to see whether there were any other pikemen or not?

A. I could not—I took care of the man I seized, and nothing else, till I left him at the watch-house.

Q. But the man told you, when he was seized, that he was forced to join the mob to save his life?

A. No such thing passed.

Q. Did you not hear some such thing?

A. I cannot say—It might be said by some others, but I did not hear it.

Q. You brought these men quietly to the watch-house without interruption?

A. We did.

Q. (*By the Jury.* Do you think you came upon the prisoners before they perceived you approaching?

A. I do not doubt but we did.)

Mr. Justice FINUCANE. But you do not know?

A. No, my Lord.

Mr. Justice FINUCANE. Then it is not evidence.

William Dove, examined by Mr. MAYNE.

Q. You were a watchman upon the 23d of July?

A. I was.

Q. Were you patrolling *New-street* that night?

A. I was.

Q. How many were in your party?

A. Nine, to the best of my opinion.

Q. You were sent by Mr. *Wilson*?

A. Yes.

Q. Did you meet any persons with pikes?

A. We did.

Q. How many?

A. I saw four with pikes.

Q. Were the four seized?

A. I am sure they were; for there were four brought to the watch-house, and four pikes; but I seized one.

Q. Look and try if you see him?

A. That is he.

Q. What is his name?

A. He

A. He went by the name of *Thomas Donnelly*.

Q. Was he one of the four?

A. He was.

Q. Had he a pike at the time?

A. He had.

Q. Mention how he was carrying it, when you seized him?

A. When I saw him first, he was trailing it.

Q. Not touching the ground?

A. No,—he turned about, and I presented a piece at him, and said, I would blow his brains out, and he made no resistance.

Q. (*By the Court.* What piece did you present?

A. A carbine and bayonet.)

Q. How came you to have a carbine?—Was you a constable?

A. No, but I had been left as a reserve, as I understood something of the military line.

Q. Did he say any thing to you?

A. Yes.

Q. What was it?

A. He begged, as a request, that I would not ill use him. I said, "never fear, my hearty, while in my custody, if you do not resist."—And he made no resistance. I desired my comrades to take the pike from him, which they did.

Q. Who took it?

A. I do not recollect.

Q. What did you with the prisoner?

A. I gave him and the three others to the watch-house.

Q. Was Mr. *Wilson* there?

A. He was.

Q. What hour was this?

A. Between ten and eleven.

Not Cross-examined.

John Maguire, examined by Mr. ATTORNEY GENERAL.

Q. In what situation were you upon the 23d of July?

A. I

A. I was sent by Mr. *Wilson* to patrol along with a party of men.

Q. How many were there?

A. Nine.

Q. You are a watchman?

A. Yes.

Q. Were you in *New-street* that night in the course of the patrol?

A. I was.

Q. Do you recollect any thing particular to have happened?

A. I saw four men with pikes in their hands, and I alarmed the guard.

Q. What guard?

A. Those men who were with me at the time.

Q. Can you tell me what became of the four men and their pikes?

A. We took them and brought them to the watch-house, and gave them to the guard there, and left them in the watch-house.

Q. Who commanded there?

A. Mr. *Wilson*?

Q. How near were these four men to each other when you first saw them?

A. About a yard or so between each of them.

Q. Can you swear positively, that when you first saw these four men, you saw pikes in the hands of each of them?

A. I can.

Q. Can you say so positively?

A. I can, because I was the first man who saw them and alarmed the guard.

Q. Can you be equally positive, that the same men you took, were the same four men you gave up to Mr. *Wilson*?

A. I am positive—there were no other four men taken.

Q. Had you any particular hand yourself in taking any of them?

A. When I alarmed the guard, I cried out,—"Are you all blind?"—and *Lambe*, the constable, ran towards them, and I went up and seized a man by the breast, and he dropped a pike, and I stooped for it.

Q. Would

Q. Would you know any of them?

A. I would one---because I knew him before, and knew him the next morning.

Q. Which is he?

A. That is the man, (pointing to *Begley*.)

(Not Cross-examined.)

MR. ATTORNEY GENERAL My Lords, I think it right to say, that I have the informations of the man taken in writing, but upon enquiry from the Magistrate, I find he did say something to the man of his telling truth, and though that would not in strictness be an objection, yet it might imply a hope, and therefore I do not wish to give evidence of them: and I wish the jury should throw out of their recollection all evidence respecting the declarations of that prisoner, and your Lordships will please to recollect, that I did not introduce any thing of it in my statement.

Q. (*By the Jury*. Are you positive, that these four men are the same men who were taken that night?

A. I am—I met them that night.

Extracts from the Proclamation were then read as in the former cases. *Vide Kearny's case*, p. 54.

Case closed on behalf of the Crown.

Mr. MACNALLY.

My Lords, and Gentlemen of the Jury.

I am Counsel for the four men at the bar: and, if it had not clearly appeared to me, from their briefs, that no danger could attach to them, from joining in their challenges, I would not have suffered all their cases to come before one jury, by one trial, but would have advised them to have severed in their challenges, a privilege which the law allows them, and which would have entitled each of them to set aside twenty jurors without shewing cause, or to be tried individually. Gentlemen, you will find no great difficulty in discriminating the case of any one of those prisoners from that of any other—you must perceive that the evidence against each, with very little variation,

variation, is the evidence against all, and their defences appear to me, marked with features of similarity equally strong. From the humane and honorable manner in which the prosecutions, under the present Commission, have been conducted, I feel that I have been perfectly right in permitting the cases of the prisoners at the bar to come before you all together. In this case, as in all those already tried, it must be admitted that no measure has been attempted to impede the defence, or prevent the prisoners from any advantage, that his situation could admit of—and it would have been ungenerous indeed in me, who with those I have been concerned for, have experienced the candid and liberal conduct of the Crown Bar, and the attention and great indulgence of the learned Judges who have presided on the Bench, to have occupied four days, in the investigation of facts so simple and so plain, so connected, and so easily to be understood, as those which you have heard given in evidence on this trial, and those which I have to lay before you in the defence.

You, gentlemen of the jury, are to judge, whether I am justifiable in asserting, that, from what has appeared in evidence, there is no conclusive proof to shew that the prisoners, or any of them, were implicated in the rebellion of *July* last : and if you cannot conclude beyond all doubt that they were implicated, my Lords will inform you, your duty is to acquit. I admit you possess incontrovertible proof that a rebellious insurrection took place on the 23d day of *July* last; an insurrection too, founded on a conspiracy to overturn the Government of *Ireland* : but unless you are satisfied beyond all question, that the prisoners were conspirators in that insurrection, with the intent charged upon them by the indictment, that is, an intent to subvert the existing government, and of bringing the King to death, you are bound by the imperative principles of justice—you are bound by the positive law of the land—you are bound, as I will shew you, not only by the spirit, but by the very letter of the statute, on the authority of which the prisoners are now trying, to say, they are innocent of the charge, to deliver them by a verdict of not guilty.

They, it is sworn, were found armed, that is not proof of treason—they were found together armed, that is not proof

proof of treason—those facts, simply taken, would only amount to evidence of an unlawful assembly—for unless something was done it would not even constitute a riot. Then, what is the question for you to try? it is this, whether they were voluntary actors. I admit the denomination of the arms found upon the prisoners must convey some suspicion of other intentions, stronger than if they had been instruments of a more common kind: but, gentlemen, you will recollect, there is no proof of their having used those arms any where, or on any occasion, in an hostile manner—there is no proof of their having been present with, or aiding, abetting, or encouraging the insurgents.

Gentlemen, I have mentioned, and I will now state to you literally the act of parliament on which the prisoners are indicted, and on the legal construction on which, you, in my humble opinion, are to form your verdict. It is entitled “the Statute of Treasons,” and it was enacted so early as in the 25th year of the reign of *King Edward the Third*; and its provisions are the strongest instances that can be given of the early and tenacious regard with which the legislature of *England* protected the life of the subject, from arbitrary constructions and newly manufactured treasons.

I will faithfully state the words of the statute, so far as it has relation to the case before you.—It first recites, “Whereas divers opinions have been before this time, in what case treason shall be said, and in what not; the King, at the request of the Lords and the Commons, has made a declaration in the manner as hereafter followeth.”—It then describes the offence in the technical language of the times, that is to say, “when a man doth compass or imagine the death of our Lord the King, of my Lady his Queen, or of their eldest son and heir; or if a man violate the King’s companion; or the King’s eldest daughter unmarried, or the wife of the King’s eldest son and heir; or if a man do levy war against our Lord the King in his realm, or be adherent to the King’s enemies in his realm, or other where, and thereof be proveably attainted of open deed, by people of their condition (that is their peers on a jury) &c. &c.—It is to be understood, that in the cases above rehearsed it ought to be judged treason.”

Gentlemen,

Gentlemen, on two species of the above treason, that is, treason in compassing the death of the King, and treason in levying war against his Majesty, the four prisoners at the bar stand charged—and you are to try whether they, or any of them, can be *proveably* attainted.

In considering the evidence against the prisoners, and at the same time recollecting the intention of the legislature, you will remember, that in proportion to the weight of the charge, the legislature, as appears by the statute recited, demands a proportionable strength of evidence. You see and you must revere the benignity of this law, which not only defines, in plain and unequivocal language, the offences which constitute high treason, but also enacts, or rather declares, (for this statute is declaratory of the more antient common law) what kind and strength of proof is indispensable to bring a man within the letter of the act. Should I, in my own language, attempt to define that proof, which, as I have said, the statute requires, I should be wasting time; because I have here before me comments upon record, the comments of those sages of the law whose antient opinions have long since become unquestionable authorities.—Lord COKE, in his third institutes (and the learned jurist was never found a friend to prisoners on trial for high treason), after citing the statute of *Edward the Third verbatim*, says, “ In this branch four things are to be observed, first, the word *provably*, that is upon direct manifest proof, not upon conjectural presumptions or inferences, or strains of wit, but upon good and sufficient proof; and herein the adverb (*provablement*) provably hath a great force, and signifieth a direct and plain proof, which word the King, the Lords and Commons in parliament did use, for that the offence was so heinous, and was so heavily and so severely punished; as none other the like; and therefore the offender must be provably attainted, which words are as forcible as upon direct and manifest proof.”—And then the learned judge adds—“ Note, the word is not *probably*, for then *commune argumentum* might have served, but the word is, *provably* be attainted.”

Gentlemen, you cannot but understand this test, but if it is not perfectly clear to your minds, I will be supported

parted by my Lords the Judges on the bench, that I am right when I urge, that you cannot convict the prisoners but on manifest proof—that you cannot convict them by inferences, or strains of wit, for that would be convicting upon *probability*; whereas there can be no attainder upon evidence that is not clear, manifest, perspicuous, and conclusive. This argument, gentlemen, I direct to you, and to you only; to you who are to find whether the prisoners are or are not guilty. I have stated the proof which the law requires, and this is the proof, which of course you, who are the jury to try their guilt, or innocence, must be satisfied, has been given in the cause, before, consistent with conscience, you can find them guilty.

Gentlemen, having pointed out to you the great caution of the legislature in protecting the King's subjects, when charged with treason, I will now call your attention to an admonition directed to you from the ATTORNEY GENERAL. This admonition made a strong impression on my mind, and I doubt not but you also felt it with equal effect. He told you, that it would be for you to consider the intension with which these men, the prisoners at the bar, had arms:—that is, I presume, whether at the time the prisoners were taken, they were going for the purpose of surrendering those arms, or were on their march to, or from, the fight. Gentlemen, I will admit you most probably entertain suspicions and doubts on the intension of those men.—I admit it is *probable* they were prepared for fight; but if the fact be ever so suspicious, or ever so probable, that will not be sufficient to justify a verdict of guilty; because it would be against the law, as admitted to be rightly stated by Lord COKE. It would be a decision from inferences, a conclusion from the straining of wit, a verdict not founded on manifest proof; it would be a verdict on probable proof, on doubts; whereas, when a jury doubts, they are bound to acquit.

Another great writer lays down a rule of law, which I shall attempt to apply to the case of the four men on trial.—Judge FOSTER, in his discourse upon high treason, says, “The joining with rebels in an act of rebellion, or with enemies in acts of hostility, will make a man a traitor; in the one case, within the clause of
“levying

"levying war, in the other, within that of adhering to
 "the King's enemies. But if this be done for fear of
 "death, and while the party is under actual force, and
 "he taketh the first opportunity that offereth to make
 "his escape, this fear and compulsion will excuse him.
 "It is however incumbent on the party, who maketh
 "fear and compulsion his defence, to shew to the satis-
 "faction of the Court and Jury, that the compulsion
 "continued during all the time he staid with the rebels
 "or enemies."

But the learned writer admits there are cases of ne-
 cessity, such as the present, which shall plead the cul-
 prit's excuse. Now what is the excuse here ; it is this,
 that from the circumstances existing at the time the pri-
 soners were taken, or rather the time that they surren-
 dered, they have no means of proving the compulsion
 exercised upon them, when arms were put into their
 hands.—This is not like the *Scotch* rebellions in 1715 or
 1745, where the rebels continued in arms a long time,
 and marched about from place to place ; where many
 were compelled, and where of course many witnesses
 could be procured to prove the compulsion, and that the
 party charged took the first opportunity to escape. Here
 there can be no witnesses to prove, that the prisoners at
 the bar, or any of them, were compelled to take arms
 and then went off :—terror keeps back those who could
 give testimony for them, and being all implicated in the
 same charge, they cannot give evidence for each other.
 But I say this ought to be their excuse, I say, if they are
 deprived by the necessity of the case from producing wit-
 nesses of their innocence, that is of their being forced to
 take arms, that should be considered as an excuse from
 a conclusion of guilt. The rebels did not become active
 till nine o'clock at night ; until then, it must be presum-
 ed, they had a watchful eye upon those they had pressed
 into their service ; till then, there could be no opportu-
 nity for escape—Now recollect the hour these men sur-
 rendered at, and, is it not clear they must have taken
 the first possible opportunity that offered to desert from
 the insurgents ? You will judge of their motive—I state
 those facts to shew that the defence is honest—that the
 charge, which depends on the intent of the prisoners,
 is not indisputably proved ; though it may raise probable
 doubts.

doubts. Did they not submit to the first persons they met? That is admitted. But then it is objected, that the party to whom they surrendered were more numerous than they, being nine in number; admitted, but were they so active, so strong, or so well armed as the prisoners? They were watchmen.—You saw that shadow of an able bodied watchman who gave evidence—Look at the prisoners—they are young, they are athletic!—Why, gentlemen of the jury, twenty such spectres of watchmen could not compel four such peasants, as the prisoners, to surrender, unless their cadaverous appearance struck them motionless with fear.—But to be serious—they did submit and surrender their arms voluntarily, and without the least resistance, which is at least a strong presumption, that they did not assume them originally with the intent imputed to them; and that they had taken the first opportunity to fly from and abandon the insurgents.

Gentlemen, permit me to supplicate your attention to an observation which, I trust, will have weight. I trust that this case, not being like those which have preceded it, the event will be different from most of them. In this case there is no evidence of brutality, of savage ferocity, or of sanguinary deed; nothing of the atrocity or bloodshed which have appeared in other cases have been imputed to the prisoners. I do not venture to say, gentlemen, that there is not evidence for your consideration; but I do venture to say, there is an equity in criminal law, which, though confined by Justice FOSTER to the mercy of the Crown, yet, I say, there is no rule which excludes it from the clemency of the Jury.—FOSTER says, that “ whenever in the case of individuals, the general rule shall be found to border on *summum jus*, the benignity of our law hath provided a proper resource in the benignity of the Crown.—I say, the equity of the Crown for mercy to individuals, when properly conducted, is founded in natural equity, and in the principles of our constitution.—It is nothing more than weighing the merits of each case, all circumstances considered, in the scale of wisdom and sound policy, against the rigour of the law.”

But

But why should not a jury hold those scales of wisdom and sound policy?—Why should they not compare cases of atrocity and murder, which convictions and executions have made notorious, with the present case, which stands free from such charges?—And why should not a jury consider and determine on those rules of natural equity, and those principles of our constitution, and those benign rules of our law, which are mediators between a prisoner and strict constructions?—*Summum jus summa injuria*, is a maxim of *English* jurisprudence; and as no authority under Heaven can set aside your verdict if you acquit, it is clear you have a right to acquit, upon the rules of natural equity, and that, without interfering with the prerogative of the Crown, which cannot be exercised till after conviction, and a conference, or at least a report, from the Judges.

But if I am wrong in this position on the privilege of juries; if I am told that you cannot deviate from strict justice, for that mercy can only flow from the Crown, to which it is a divine attribute, and which in legal phrase is considered its fountain; still I have a claim upon your conscience depending on this single question, to be put to yourselves, by yourselves, after the learned Judge has concluded, and you have retired to deliberate.—The question is—have you a *doubt*?—If you have, or if the evidence trembles in *equilibrio*, then mercy must fall into the scale, and preponderate in favour of the prisoners. I say, if there be a doubt, not only natural equity, but natural justice, gives the prisoners a title, a right to claim your acquittal—a claim which you cannot deny.

Gentlemen, excuse me for pressing thus upon your attention, but consider I am the only Counsel those four men have been able to employ; for such is their poverty, they could not retain a second. I mention this, that you may add every assistance, consistent with your duty, to strengthen my weak exertions against the superior powers and influence of the Crown Lawyers, and the full artillery of their united abilities, levelled against my clients.—But in saying this, I do not mean to insinuate, that any undue influence or power has been levelled; for, on the contrary, on all occasions, I shall be ready to bear testimony to the candour which has marked the progress

progress of this prosecution—and indeed of each prosecution that has preceded it.

—Gentlemen, I have now only to state what evidence the prisoners can adduce. They can give evidence of most excellent characters; and where there is a doubt, and the charge goes to a bad intention, surely a good character is often the best evidence any man can produce. — Some matters of law have occurred, if you wish to be advised on those points, my Lords, will satisfy you—I will not intrude further on your patience. The Court has a full knowledge of the case—They will, in the true spirit of clemency, give the prisoners every advantage and every effect of that oath which his Majesty, of whom they are the representatives, takes at his coronation, that is, “to administer justice in mercy,” a principle which is delegated to all who derive authority under the crown; and none are more inclined to give the utmost efficacy to this attribute of the divine power, than the judges who preside on this trial.

Edward Clarke, Esq.

Examined by Mr. MAC NALLY.

Q. Do you know the prisoners?

A. I know *Donnelly* and *Tyrrell*.

Q. How long have you known *Tyrrell*?

A. Since he was a child.

Q. He lived in your neighbourhood?

A. He always did.

Q. What is his general character as to the peaceableness of his disposition?

A. With regard to his general character, he always appeared to me to be a very simple fellow, easily led to good or harm. Otherwise, in general, a well behaved simpleton.

Q. Was his character during the last rebellion, and down to the time of his being taken up, that of a loyal poor boy?

A. In the rebellion of 1798, he was a pretty well-grown lad; and, at that period, I found it necessary to watch even the lads and boys, who were in my employment, and to admonish them to be quiet.

No. 10.

F

(Here

(Here the witness was much affected, and shed tears upon seeing the state the prisoners *Tyrrrell* and *Donnelly* were in; after some minutes he proceeded.)

I took uncommon pains with my working people, who were very numerous. I was fortunate enough to keep them quiet, to the astonishment of the then government—and his Lordship on the Bench did express his surprise, that I could keep such a number of people in good order, at such a period. I felt proud of this, and I did hope, that at this period I would have the like influence, and when my suspicions of approaching disturbances were excited, I began to make the most serious enquiry among those who were likely to know of it.—I found all in sullen silence, and that no information would be given, as in the former case.

Q. (*By the Court.* When was this?)

A. The 21st and 22d of *July* last—My people all denied it—they said there was no ground for apprehension, and desired me not to be alarmed.—My feelings are now raised to see these unfortunate persons here, and in such danger; and still more so, as on *Saturday*, the 23d of *July*, I met these very persons, with many others, who were bred under me.—I feel for them, because they did not take my advice.—The multitude I met on the road when I was returning from town.)

Mr. MAC NALLY. I called you merely to give a character of the men,—you will excuse me, Mr. *Clarke*, for interrupting you, but I must beg you will confine yourself to character.

Q. What is *Donnelly's* character?

A. As to *Donnelly*, I am not so well acquainted with him as the other—I know he worked for me, and I had a good character of him.

Cross-examined by Mr. ATTORNEY GENERAL.

Q. Did you, Mr. *Clarke*, meet with any accident that night?

A. I did—I was fired at upon *Arran-Quay*, when I was returning from the Castle of *Dublin*, between nine and ten o'clock—it was a very little after nine—I was way-laid at the corner of a lane leading up to *Smithfield*,
by

by three or four men armed with blunderbusses. One of them stepped forward, and cried out—"Where have you been, informing?"—and fired—my horse had turned obliquely to him, and I received the shot in my shoulder. The blunderbuss, being heavily loaded, burst, and thirteen slugs were lodged in me.—My horse galloped off, and they fired two blunderbusses more after me—A ball passed by my shoulder, and another hit my hat—one shot struck me across the nose, which bled very much.—I returned to the Castle, gave information of what happened, and remained there that night.

Q. Had you been at the Castle, upon the subject, in the course of that day before?

A. I had; and the day before, and the day before that.

Q. Mention the communication which you had with Mr. Marsden upon Saturday?

A. On Saturday I was confirmed more in my opinion, of the certainty of the rising, than I was on Friday, but I had notice of it on Thursday, and on that day I gave notice of it at the Castle.—But upon Friday I was less certain than upon Thursday, but said, I would make every enquiry.—On Saturday morning I got more certain and sure, that every thing base and barbatous would go forward. I came into town immediately—I got two or three expresses on my way, particularly from a loyal house in this town, and from a Roman Catholic Priest, that there would be a rising.—I told Mr. Marsden of this, and begged he would take proper steps to prevent it. He said to me—"You have changed your mind very suddenly."—I said, "I had so," but I gave him the reasons of it.—He seemed satisfied, and asked me, when I would leave town.—He intended, I believe, to have me examined by the Privy Counsel.—I said, I would wait at my ware-house in town, at Mr. O'Brien's—and he said, he would send for me. He did not send, and I went to the Castle at four o'clock.

On Friday, Mr. Marsden had desired me to call the next morning, and as I came into town I observed groupes of men consulting and whispering together about Newtown-Clarke and Palmerstown, and avoiding me, when they saw me, in the manner they appeared previous to the last rebellion.

Q. Did

Q. Did you ~~ask~~ at the Castle for any military aid?

A. I did.

Q. Was military aid sent accordingly?

A. There was.

Q. Although you gave notice of your apprehensions on *Thursday*, you seemed on *Friday* to think it might be a false alarm?

A. I did.

Q. Then I collect from you, *Mr. Clarke*, that any information you gave was received with attention at the Castle, and where assistance was required, it was granted to you?

A. Most certainly—I always experienced the greatest attention and civility; and *Mr. Marston* always, in my opinion, wished to do every thing in his power to prepare for the event—and I was sorry to see reflections upon him in an *English* paper; I am satisfied he did not deserve them.

MT. ATTORNEY GENERAL. My Lord, I am glad this opportunity has occurred, to refute the statements which have been published, either by ignorance or malice.—*Mr. Clarke*, you have done yourself great honour, and your country real service.

LORD NORBURY. *Mr. Clarke's* testimony must be highly satisfactory, as coming from a man so much respected, regarded, and to whom this country owes so great obligation.

Thomas Coogan, examined by Mr. MAC NALLY.

Q. Where do you live?

A. In *Palmerstown*.

Q. In what employment?

A. In the employment of *Mr. Clarke*, to conduct part of his business.

Q. Do you know the prisoner *Donnelly*?

A. I do.

Q. What is his general character?

A. I never knew a better character in his circumstances.

Q. I believe he is not very strong in his intellects?

A. I

A. I do not know as to that.

Q. How old is he?

A. About eighteen or nineteen.

Cross-examined by Mr. ATTORNEY GENERAL.

Q. Do you not believe, that many persons of weak understandings and good character were engaged in the rebellion of the 23d of July?

A. I do believe it.

Thomas Slattery, examined by Mr. MAC NALLY.

Q. Do you know Tyrrell, the prisoner?

A. Yes.

Q. What is his general character?

A. I believe him to be a sober and honest man.

Not Cross-examined.

Thomas Plunket, examined by Mr. MAC NALLY.

Q. Where do you live?

A. In Naas.

Q. Do you know Kelly?

A. I do.

Q. How long?

A. As long as I know any one.

Q. Do you live near him?

A. I do.

Q. Are you acquainted with his general character and conduct in life?

A. I am.

Q. Do you consider him as a man deserving the character of a loyal man?

A. I never heard any thing as to disloyalty—he has the character of a fair, inoffensive man.

Cross-examined by Mr. PRIME SERJEANT.

Q. You live in Naas?

A. Yes.

Q. Did not several persons leave Naas upon the 23d of July?

A. There

A. There did several.

Q. And they came up to *Dublin*, for the purpose of joining in the rebellion?

A. I cannot tell.

Q. Did not several come from *Naas* to join in it?

A. Some was killed as I heard.

Q. Then they must have come for the purpose?

A. I suppose so.

Q. Now, with regard to these persons, did you ever hear any objection to their characters upon the score of loyalty?

A. I did not.

Q. (*By the Court.* What line of life is *Kelly* in?

A. A Bricklayer.)

Henry Heyden examined by Mr. MAC NALLY.

Q. Do you know the prisoner *Kelly*?

A. I do.

Q. You live near *Naas*?

A. I did.

Q. How long have you known him?

A. Since he was a boy.

Q. Did you live near him?

A. Yes.

Q. Do you know his general character?

A. I do.

Q. Has he the character of a loyal or disloyal man?

A. That is a thing I know nothing of, only one thing that I heard, he was at home the whole of the last rebellion, when many others went to join the rebels on the hill—he worked at the barriers in the town.

Q. What is his character as to peaceableness?

A. He is a quiet, simple man.

Not Cross-examined.

James Mac-Nally, examined by Mr. MAC NALLY.

Q. You are a Salesman in *Smithfield*?

A. I am.

Q. Do you know the prisoner *Bayly*?

A. Yes.

A. Yes.

Q. How long?

A. Eight years.

Q. He is an hostler at the *Sun Inn*?

A. He was.

Q. Do you know his general character?

A. He was a very civil man—I never heard any thing bad of him.

Cross-examined by Mr. SOLICITOR GENERAL.

Q. All you know of him is, that he was a civil hostler?

A. Yes.

John Ledbam, examined by Mr. MAC NALLY.

Q. Where do you live?

A. Now in *Prussia-street*, formerly in *Rathcoole*.

Q. Do you know *Bayly*?

A. Yes.

Q. What is his general character?

A. I never heard any thing bad of him.

Cross-examined by Mr. MAYNE.

Q. You did not see him in the rebellion?

A. No.

Here the case closed on behalf of the Prisoners.

Mr. JUSTICE FINUCANE.

Gentlemen of the Jury:

The Prisoners at the Bar are indicted of High Treason in compassing the death of the King, and making, levying, and raising open rebellion, insurrection and war against him. That insurrection and war was actually carried on upon the 23d of *July* last, no doubt can be entertained, but it was a matter, necessary that you should be ascertained of, in order to support the indictment. The fact of a rebellion raging is a matter conceded on all hands—and then the principal fact for you to

to enquire into is, whether the prisoners at the bar or any of them took any part, aiding, abetting, or assisting in it—and Gentlemen, to support this charge against the prisoners; the first witness examined was Mr. Wilson, who informs you, that he had an affair with the rebels in *Dirty-lane*, after which he retreated to a watch-house in *New-Street*—that the prisoners were brought to him by the watch-men, who also brought in four pikes—he swears positively that the four men at the bar, were the four men who were brought to him on that night the 23d of July—(Here the learned Judge stated the remainder of the evidence.) Mr. Wilson stated to you, Gentlemen, the declarations which Begley made in the prison, but you are to discharge your minds altogether of them—what was said was taken down in writing, and no parole evidence should be received of it, and even if the writing were produced, very little regard should be paid to it, under the circumstances which have appeared: for it is laid down by an able writer, that evidence of confession should be very cautiously received.—“The human mind, under pressure of valour, is easily seduced; and is liable, in the moment of danger, to acknowledge indiscriminately, a falsehood, or a truth, as different agitations may prevail. A confession, therefore, whether made upon an official examination, or in discourse with private persons, which is obtained from a defendant, either by the flattery of hope, or by the impressions of fear, however slightly the emotions may be implanted, is not admissible evidence, for the law will not suffer a prisoner to be made the deluded instrument of his own conviction.”

Gentlemen, I mention this to let you see in what light the evidence should be received; for even if it were admitted here, little attention ought to be paid to it. But you will discharge your minds of it altogether, because it is not now before you.—(After going through the evidence, the learned Judge proceeded.)

In order to convict those men of this offence, it is necessary, that you should be satisfied they were aiding, assisting, and abetting in the rebellion; and that their motive for having pikes in their hands, on that night, was that of aiding, assisting, and abetting the rebellion. The time when they were taken—so soon after the attack

tack upon the *Coombe* guard, and the weapons which they had in their hands, are strong circumstances against them. It is not direct evidence against them, for they were not seen at the place of action---they were taken in another street, and made no resistance. But direct evidence is not indispensably necessary. Strong presumptive evidence is as satisfactory for conviction as any other;---as in the common case stated of murder---A man is seen coming out of a house with a drawn sword in his hand, all bloody, and a person is found dead in the house, though no person saw the wound inflicted, it is strong presumptive evidence of the guilt of the man who came out. Here there is not so strong presumptive evidence; but there is strong probability, which is a ground for inferring a fact. But probability is a ground which should be trod with caution, especially in a case where the life of a man is concerned; for it is nothing more than an inference of the mind from facts laid before it; and such inferences are liable to fallibility, as all deductions of the mind are, and the circumstances may operate differently upon different minds.---Probable circumstances, however, seldom err---they are not fabricated for the purpose; whereas direct evidence may be fabricated.---There are additional circumstances to be considered in this case---One of the prisoners came from *Naas*, and he gives us no account what brought him to town.---The others alleged excuses for their coming;---that they came to buy cloaths, but they gave no evidence of that; and this may strengthen the ground of probability against them.---Against this you will weigh their conduct when they were stopped---they made no resistance---men, in their situation, if engaged in the insurrection, would not submit so quietly.

Character is also some evidence, where probability is the ground of the accusation.

Upon the whole, if you are of opinion, that each of the prisoners was of the party engaged in the insurrection that night, you ought to find them guilty, being satisfied of their identity.---But real and well-founded doubt is ground of acquittal. Many men were forced to take up pikes that night, and if you have any rational well-grounded doubt of the guilt of the prisoners, though many lamentable consequences flowed from the events of that night, you ought to acquit them.

(42)

The Jury retired, and after deliberating a quarter of an hour, returned a verdict, finding the four prisoners *Guilty*.

The prisoners were then remanded.

And on *Wednesday*, the 14th of *September*, they were brought up and received sentence.

They were afterwards executed at *Palmerstown*.

Counsel for the Crown.
Same as in the former
Trials.
Crown Solicitors,
T. and W. KEMMIS.

Counsel for the Prisoners.
Mr. MAC NALLY.
Agent,
Mr. L. MAC NALLY.

R E P O R T

OF THE

PROCEEDINGS

IN

Cases of High Treason.

SPECIAL COMMISSION.

Monday, September 19th, 1803.

The Court sat pursuant to Adjournment.

Judges present:—Lord NORBURY, Mr. *Baron* GEORGE,
and Mr. *Baron* DALY.

Robert Emmet, Esq. was put upon his trial.

HE had been brought into Court upon the 7th of this month, and then informed, that a Bill of Indictment for High Treason was found against him, and he was desired to name his Counsel and Agent, which he did—but some alterations afterwards took place at his own desire, and the Counsel and Agent ultimately assigned, were Mr. BURROWS and Mr. MAC NALLY, Counsel; and Mr. *L. Mac Nally*, Agent.

B

On

On *Wednesday* the 15th, he was arraigned on the following Indictment:

County of the City of } THE Jurors of our Lord the
 Dublin to wit. } King, upon their oath present,
 that *Robert Emmet*, late of *Thomas-street*, in the city and
 county of the city of *Dublin*, Esq. being a subject of our
 said Lord the now King, not having the fear of God in
 his heart, nor weighing the duty of his allegiance, but be-
 ing moved and seduced by the instigation of the Devil, as
 a false traitor against our said Lord the now King, his su-
 preme, true, lawful and undoubted Lord, the cordial love
 and true and due obedience which every true and dutiful
 subject of our said Sovereign Lord the King, towards
 him our said Lord the King, should bear, wholly with-
 drawing, and contriving and intending the peace and
 common tranquillity of this kingdom to disquiet, molest
 and disturb, and the Government and Constitution of this
 realm to change, subvert and alter, and our said Lord
 the King from the Royal state, title, honour, power, Im-
 perial crown and Government of this kingdom to depose
 and deprive, and our said Lord the present King, to death
 and final destruction to bring and put, he the said *Robert
 Emmet*, on the twenty-third day of *July*, in the forty-third
 year of the reign of our said Lord the King, at *Thomas-
 street* afore said, in the city and county of the city of
Dublin afore said, with force and arms, falsely, wickedly
 and traiterously, did compass, imagine and intend, our said
 Lord the King, then and there, his supreme, true and law-
 ful Lord, of and from the Royal state, crown, title, power
 and government of this realm to depose and wholly de-
 prive, and our said Lord the King to kill and bring and
 put to death. And that to fulfil, perfect and bring to
 effect his most evil and wicked treason and treasonable ima-
 ginations and compassings afore said, He, the said *Robert
 Emmet*, as such false traitor as afore said, on the said
 twenty-third day of *July*, in the forty-third year of the
 reign of our said Lord the King, at *Thomas-street* afore-
 said, in the city and county of the city of *Dublin* afore-
 said, with force and arms, falsely, maliciously and traito-
 rously did meet, consult, combine, conspire, confederate
 and agree to and with divers other false traitors whose
 names are to the Jurors afore said unknown, to raise, levy
 and make a public and cruel insurrection, rebellion and
 war

war against our said sovereign Lord the King, within this kingdom, and to procure great quantities of arms and ammunition, guns, swords, pistols, gunpowder and shot for the purpose of said rebellion, and to alter, subvert and overturn the constitution of this kingdom, and the Government of our said Lord the King, of and in this Realm.

✓ And that afterwards, to wit, on the said twenty-third day of July, in the said forty-third year of the reign of our said Lord the King, with force and arms, at *Thomas-street* afore-said, in the city and county of the city of *Dublin* afore-said, the said *Robert Emmet*, as such false traitor as afore-said, in further prosecution of his treason and treasonable purposes afore-said, falsely, maliciously and traitorously did procure great quantities of arms and ammunition, guns, swords, pistols, gunpowder and shot, and did then and there falsely, maliciously and traitorously make and prepare, and did cause and procure to be made and prepared, a great number, to wit, 1000 pikes, with intent that divers other false traitors, whose names are to the said Jurors unknown, should be armed with the said guns, swords, pistols and pikes, and being so armed should use the same, and the gunpowder, shot and ammunition afore-said in and for the raising, making and carrying on insurrection, rebellion and war against our said Lord the King, and in and for the committing and perpetrating a cruel slaughter of, and amongst the faithful subjects of our said Lord the King in this kingdom.

✓ And that afterwards, to wit, on the said twenty-third day of July, in the said forty-third year of the reign of our said Lord the King, with force and arms, at *Thomas-street* afore-said, in the city and county of the city of *Dublin* afore-said, the said *Robert Emmet*, as such false traitor as afore-said, in further prosecution of his treason and treasonable purposes afore-said, falsely, wickedly and traitorously did associate himself with and did become one of a certain society of persons, then and there formed and associated, under the name of the Provisional Government, for the purpose of raising, levying and making public war against our said Lord the King, within this realm, and of altering, subverting and overturning the Constitution of this realm, and the government of our said Lord the King, of and in this kingdom, the said *Robert Emmet*, then and there well knowing the purposes for which

which the said Society was so formed and associated as aforesaid.

4. And that afterwards, to wit, on the said twenty-third day of *July*, in the forty-third year of the reign of our said Lord the King, with force and arms at *Thomas-street* aforesaid, in the city and county of the city of *Dublin* aforesaid, the said *Robert Emmet*, as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes aforesaid, falsely, wickedly, and traitorously did make, compose and write a certain proclamation, manifesto and declaration, purporting to be a proclamation, manifesto and declaration of and by the said *Provisional Government*, and purporting among other things, that the said *Provisional Government* had determined to separate that part of this kingdom called *Ireland*, from that part of this kingdom called *England*, and for that purpose to make, levy, and wage open and public war against our said Lord the King and his troops within this realm, with intent that the said proclamation, manifesto, and declaration should be published as and for the proclamation, manifesto, and declaration of the said *Provisional Government*, and that it should spread amongst the people of this kingdom, and should incite them to enter into and continue in rebellion and war against our said Lord the King.

5. And that afterwards, to wit, on the said twenty-third day of *July*, in the said forty-third year of the reign of our said Lord the King, with force and arms at *Thomas-street* aforesaid, in the city and county of the city of *Dublin* aforesaid, the said *Robert Emmet* as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes aforesaid, falsely, wickedly and traitorously did make, compose and write a certain proclamation, manifesto, and declaration, purporting to be a proclamation, manifesto, and declaration of and by divers persons to the jurors unknown, then and there formed and associated together, under the name of the *Provisional Government*, and importing that the said persons so formed and associated had determined to separate that part of this kingdom called *Ireland*, from that part of this kingdom called *England*, and for that purpose to raise levy and wage public war against our said Lord the King within this kingdom, with intent that the said proclamation, manifesto, and declaration should be published, as and for the proclamation, manifesto and declaration of the said persons so formed and associated

associated, and that it should be spread amongst the people of this kingdom, and should unite them to enter into and continue in rebellion and war against our said Lord the King.

And that afterwards, to wit, on the said twenty-third day of *July*, in the said forty-third year of the reign of our said Lord the King, with force and arms at *Thomas-street* aforesaid, in the city and county of the city of *Dublin* aforesaid, the said *Robert Emmet* as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes as aforesaid, falsely, wickedly and traitorously did keep and conceal, and did cause and procure to be kept and concealed a certain proclamation, manifesto and declaration, purporting to be a proclamation, manifesto and declaration of, and by divers persons to the jurors unknown, then and there formed and associated together, under the name of the Provisional Government, and importing that the said persons so formed and associated, had determined to separate that part of this kingdom called *Ireland*, from that part of this kingdom called *England*, and for that purpose to raise, levy and wage a public war against our said Lord the King within this kingdom, with intent that the said proclamation, manifesto and declaration should be published, as and for the proclamation, manifesto and declaration of the said persons so formed and associated, and that it should be spread amongst the people of this kingdom, and should incite them to enter into and continue in rebellion and war against our said Lord the King.

And that afterwards, to wit, on the said twenty-third day of *July*, in the forty-third year of the reign of our said Lord the King, with force and arms, at *Thomas-street* aforesaid, in the city and county of the city of *Dublin* aforesaid, the said *Robert Emmet* as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes aforesaid, with a great multitude of persons, whose names are to the said jurors unknown, to wit, to the number of one hundred persons and upwards, armed and arrayed in a warlike manner, to wit, with guns, swords, and pikes, being then and there unlawfully and traitorously assembled and gathered against our said Lord the King, falsely, wickedly and traitorously, did prepare, levy, ordain and make public war against our said Lord the King, against the duty of the allegiance of him the said *Robert Emmet*, against the peace of our Lord the King, his crown and

and dignity, and contrary to the form of the statute in such case made and provided.

8 And the jurors aforesaid, upon their oath aforesaid further present, that an open and public war, on the said twenty-third day of *July*, in the said forty-third year of the reign of our said Lord the King, and long before and ever since, hitherto by land and by sea, was and yet is carried on and prosecuted by the persons exercising the powers of government in France, against our said Lord the King, and that the said *Robert Emmet*, a subject of our said Lord the King, well knowing the premises, not having the fear of God in his heart, not weighing the duty of his allegiance, but being moved and seduced by the instigation of the devil, as a false traitor against our said Lord the King, his supreme, true, lawful and undoubted Lord, and contriving and with all his strength intending the peace and common tranquillity of this kingdom to disquiet, molest and disturb, and the government of our said Lord the King, of this kingdom to change, subvert and alter, he the said *Robert Emmet*, during the war aforesaid, to wit, on the said twenty-third day of *July*, in the forty-third year of the reign of our said Lord the King, and on divers other days and times, as well before as after that day, with force and arms, at *Thomas-street* aforesaid, in the city and county of the city of *Dublin* aforesaid, unlawfully and traitorously was adhering to and aiding and comforting the said persons exercising the powers of government in France, and then being enemies of our said Lord the King, as aforesaid, and that in prosecution, performance, and execution of the said traitorous adhering of the said *Robert Emmet*, to the said persons exercising the powers of government in France, afterwards and during the continuance of the said war, to wit, on the said twenty-third day of *July*, in the said forty-third year of the reign of our said Lord the King, at *Thomas-street* aforesaid, in the city and county of the city of *Dublin*, he the said *Robert Emmet*, as such false traitor as aforesaid, with force and arms, falsely, maliciously and traitorously did meet, consult, combine, conspire, confederate and agree, to and with divers other false traitors, whose names are to the jurors aforesaid unknown, to raise, levy and make a public and cruel insurrection, rebellion, and war against our said sovereign Lord the King, within this kingdom, and to alter, subvert and overturn the constitution

stitution of this kingdom, and the government of our said Lord the King, of and in this realm.

And that afterwards, to wit, on the said 23d day of *July*, in the said forty-third year of the reign of our said Lord the King, with force and arms, at *Thomas-street* aforesaid, in the city and county of the city of *Dublin* aforesaid, the said *Robert Emmet*, as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes last mentioned, falsely, maliciously and traitorously did make and prepare, and did cause and procure to be made and prepared, a great number, to wit, one thousand pikes, with intent that divers other false traitors, whose names are to the said Jurors unknown, should be armed with the said pikes, and being so armed, should use the same in and for the raising and carrying on insurrection, rebellion and war against our said Lord the King, and did then and there procure great quantities of arms and ammunition, guns, pistols, swords, pikes, gun-powder and shot, for the purpose of the said insurrection, rebellion and war.

And that afterwards, to wit, on the said twenty-third day of *July*, in the said forty-third year of the reign of our said Lord the King, with force and arms, at *Thomas-street* aforesaid, in the city and county of the city of *Dublin* aforesaid, the said *Robert Emmet*, as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes last mentioned, falsely, wickedly, and traitorously did associate himself with, and did become one of a certain society of persons, then and there formed and associated under the name of the Provisional Government, for the purpose of raising, levying, and making public war against our said Lord the King within this realm, and of altering, subverting, and overturning the constitution of this realm, and the government of our said Lord the King, of and in this Kingdom, the said *Robert Emmet*, then and there well knowing the purposes for which the said society was formed and associated as aforesaid.

And that afterwards to wit, on the said twenty-third day of *July*, in the said forty-third year of the reign of our said Lord the King, with force and arms, at *Thomas-street* aforesaid, in the city and county of the city of *Dublin* aforesaid, the said *Robert Emmet*, as such false traitor as aforesaid, in further prosecution of his treason and treasonable

treasonable purposes last mentioned, falsely, wickedly and traitorously did make, compose, and write a certain proclamation, manifesto and declaration, purporting to be a proclamation of and by the said Provisional Government, and purporting, amongst other things, that the said Provisional Government had determined to separate that part of this kingdom called *Ireland*, from that part of this kingdom called *England*, and for that purpose to make levy and wage open and public war against our said Lord the King, and his troops, within this realm, with intent that the said proclamation, manifesto, and declaration should be published as and for the proclamation, manifesto and declaration of the said Provisional Government, and should be spread amongst the people of this kingdom, and should incite them to enter into and continue in rebellion and war against our said Lord the King.

12 And that afterwards, to wit, on the said twenty-third day of *July*, in the said forty-third year of the reign of our said Lord the King, with force and arms, at *Thomas-street* afore said, in the city and county of the city of *Dublin* afore said, the said *Robert Emmet*, as such false traitor as afore said, in further prosecution of his treason and treasonable purposes last mentioned, falsely wickedly and traitorously did compose and write a certain proclamation, manifesto and declaration, purporting to be a proclamation, manifesto and declaration of and by divers persons to the Jurors unknown, and then and there formed and associated together under the name of the Provisional Government, and importing that the same persons so formed and associated had determined to separate that part of this kingdom called *Ireland*, from that part of this kingdom called *England*, and for that purpose to raise, levy and wage a public war against our said Lord the King, within this kingdom, with intent that the said proclamation, manifesto and declaration should be published as and for the proclamation, manifesto and declaration of the said persons so formed and associated, and that it should be spread among the people of this kingdom, and should incite them to enter into and continue in rebellion and war against our said Lord the King.

3 And that afterwards, to wit, on the said twenty-third day of *July*, in the said forty-third year of the reign of our said

said Lord the King, with force and arms at *Thomas-street* aforesaid, in the city and county of the city of *Dublin* aforesaid, the said *Robert Emmet* as such false traitor aforesaid, in further prosecution of his treason and treasonable purposes last mentioned, falsely, wickedly and traitorously did keep and conceal, and did cause and procure to be kept and concealed, a certain proclamation, manifesto and declaration, purporting to be a proclamation, manifesto and declaration of and by divers persons to the Jurors unknown, then and there formed and associated together under the name of the Provisional Government, and importing that the said persons so formed and associated had determined to separate that part of this kingdom called *Ireland* from that part of this kingdom called *England*, and for that purpose to raise, levy and wage a public war against our said Lord the King within this kingdom, with intent that the said proclamation, manifesto and declaration should be published as and for the proclamation, manifesto and declaration of the said persons so formed and associated, and that it should be spread amongst the people of this kingdom, and should incite them to enter into and continue in rebellion and war against our said Lord the King.

And that afterwards, to wit, on the said twenty-third day of *July*, in the forty-third year of the reign of our said Lord the King, with force and arms at *Thomas-street* aforesaid, the said *Robert Emmet*, as said false traitor as aforesaid, in further prosecution of his treason and treasonable purposes last mentioned, with great multitude of persons whose names are to the said Jurors unknown, to wit, to the number of one hundred persons and upwards, armed and arrayed in a warlike manner, to wit, with guns, swords and pikes, being then and there unlawfully and traitorously assembled and gathered against our said Lord the King, falsely, wickedly and traitorously did prepare, levy, ordain and make public war against our said Lord the King against the duty of the allegiance of him, the said *Robert Emmet*, against the peace of our said Lord the King, his crown and dignity, and contrary to the form of the statute in such case made and provided.

And the said Jurors of our said Lord the King upon their oath do further present, that the said *Robert Emmet*, being a subject of our said Lord the now King, and not having the fear of God in his heart, nor weighing the duty of his allegiance, but being moved and seduced by the instigation

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of the Devil, and entirely withdrawing the love and true and due obedience which every subject of our said Lord the King should and of right ought to bear towards our said Sovereign Lord the King, and wickedly devising and intending to disturb the peace and public tranquillity of this kingdom, on the twenty-third day of *July*, in the forty-third year of the reign of our said Lord the King, with force and arms at *Thomas-street* aforesaid, in the city and county of the city of *Dublin* aforesaid, unlawfully, maliciously and traitorously did compass, imagine and intend to raise and levy war, insurrection and rebellion against our said Lord the King within this kingdom; and in order to fulfil and bring to effect the said traitorous compassing, imaginations and intentions of him the said *Robert Emmet*, he, the said *Robert Emmet*, afterwards, to wit, on the said twenty-third day of *July*, in the forty-third year of the reign of our said Lord the King, with force and arms at *Thomas-street* aforesaid, in the city and county of the city of *Dublin* aforesaid, with a great multitude of persons whose names are to the said Jurors unknown, to a great number, to wit, to the number of one hundred persons and upwards, armed and arrayed in a warlike manner, to wit, with swords, guns and pikes, being then and there unlawfully and traitorously assembled and gathered together against our said Lord the now King, wickedly, maliciously and traitorously did ordain, prepare, levy and make public war against our said Lord the King, his supreme and undoubted Lord, contrary to the duty of the allegiance of him, the said *Robert Emmet*, against the peace of our said Lord the King, his crown and dignity, and contrary to the form of the statute in such case made and provided.

The Prisoner pleaded, *Not Guilty*—and being asked, was he ready for trial, said he would be ready on *Monday*; to which the ATTORNEY GENERAL consented, and the Court adjourned.

Accordingly on this day, *Monday*, 19th *September*, Mr. *Emmet* was put upon his trial:

Judges present—Lord NORBURY, Mr. Baron GEORGE, and Mr. Baron DALY.

The following Jury was sworn, after twelve were selected by on the part of the Crown—two were challenged by the Prisoner, for cause, not having freeholds in the city—not being

being freemen thereof, and nineteen challenged peremptorily :

John Geale,
John Dickson,
Robert Turbett,
Daniel Kinahan,
Beaver Buchanan,
William Davis,

W. G. Galway,
Charles Harte,
Benjamin Holmes,
John Lloyd,
Walter Locke,
Thomas Palmer.

The Prisoner was given in charge.

Mr. O'GRADY opened the indictment.

MR. ATTORNEY GENERAL.

Place des ...

My Lord, and Gentlemen of the Jury :

It is my duty to state as concisely as I can, the nature of the charge, which has been preferred against the Prisoner, at the bar ; and also, Gentlemen, the nature of the evidence, which will be produced to substantiate that charge. It will require upon your part the most deliberate consideration : because it is not only the highest crime of which at all times the subject can be guilty ; but it receives, if possible, additional aggravation, when we consider the state of *Europe*, and the lamentable consequences which revolution has already brought upon it.

Perhaps at former periods some allowance might be made for the heated imaginations of enthusiasts ; perhaps an extravagant love of liberty might for a moment supersede a rational understanding, and men might be induced, for want of sufficient experience or capacity to look for that liberty in revolution. But sad experience has taught us, that modern revolution is not the road to liberty. It throws the mass of the people into agitation only to bring the worst and the most profligate to the surface. It originates in anarchy, proceeds in bloodshed, and ends in cruel and unrelenting despotism.

Therefore, Gentlemen, the crime of which the prisoner stands charged demands the most serious and deep investigation, because it is in its nature a crime of the blackest dye, and which under all existing circumstances does not admit of a momentary extenuation.

Gentlemen, the Prisoner stands indicted upon a very ancient statute—the 25th of *Edward III.*—and the indictment

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ment is grounded upon three clauses. The first relates to compassing and imagining the death of the king—the second to adhering to his enemies—and the third to compassing to levy war against him. The two latter, namely, that of adhering to the king's enemies, and that of compassing to levy war are so intelligible in themselves, that they do not require any observation upon them. But the first does admit of some technical consideration, and may require upon my part a short explanation.

In the language of the law, compassing the death of the King, does not mean or imply necessarily any immediate attack upon his person.—But any conspiracy, which has for its object an alteration of the laws, constitution and government of the country by force, uniformly leads to anarchy and general destruction, and finally tends to endanger the life of the King.—And therefore where that design is substantiated and manifested by overt acts,—whenever the party entertaining the design uses any means to carry his traitorous intentions into execution, the crime of compassing and imagining the death of the King is complete.

Accordingly, gentlemen, this indictment particularly states several overt acts by which the prisoner disclosed the traitorous imagination of his heart.—And, gentlemen, if it shall be necessary, those particular overt acts, and the applicability of the evidence which will be produced to support them, will be stated at large to you by the Court; and therefore it will not be necessary for me now to trespass upon the public time, by a minute examination of them.—

Gentlemen, having heard the charge against the prisoner, you will naturally feel that your duty will require an investigation into two distinct points:—*First*, “Whether there has, or has not existed a traitorous conspiracy and rebellion for the purpose of altering the Law, the Constitution and the Government of the country by force?”—and, *Secondly*, “Whether the prisoner has in any and what degree participated in that conspiracy and rebellion?”

Gentlemen, I was happy upon the opening of this Commission to have stated to the public, through the Jury which I had the honor to address, that this rebellion, dark as it was in its object, and mischievous in its design,
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was in truth in point of numbers, contemptible in the extreme, and that it was prepared and put forward by those only, who had been distinguished for their former treasons.—I am happy to state now, with more confidence, that during the investigation which has taken place here, what I then stated has turned out to be precisely the fact.—I then also congratulated the public upon the tranquillity of the country; and I am happy at this period to be able to renew those congratulations, and to state, that notwithstanding the cruel and dastardly efforts of that rebellion, peace and tranquillity now reign throughout the land. I did not then, nor will I now, state any prospective views of my own.—I do not wish to undertake to speak in the prophetick.—But when I consider the vigilance and firmness of his Majesty's Government, and the spirit and discipline of his Majesty's troops, and that armed valour and loyalty which, from one end of the country to the other, has raised itself for the purpose of crushing domestic treason, and, if necessary of meeting and repelling a foreign foe, I do not think it unreasonable to indulge a sanguine hope, that a continuance of the same conduct upon the part of the Government, and of the same exertions upon the part the people, will long preserve the nation free, happy and independent.

Gentlemen, upon former occasions, persons were brought to the bar of this court, implicated in the rebellion, in various, though inferior degrees. But if I am rightly instructed, we have now brought to the bar of justice, not a person who has been seduced by others, but a Gentleman to whom the rebellion may be traced, as the origin, the life, and the soul of it. If I mistake not, it will appear, that some time before *Christmas* last, the prisoner who had visited foreign countries, and who for several months before had made a continental tour, embracing *France*, did return to this country; full of these mischievous designs, which have been now so fully exposed. He came from that country, in which he might well have learned the necessary effects of revolution; and therefore if he be guilty of the treason, he embarked in it with his eyes open, and with a previous knowledge of all its inevitable consequences. But notwithstanding, I am instructed, that he persevered in fomenting a rebellion, which I will be bold to say, is unexampled in any country, ancient or modern. A rebellion
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which does not complain of any existing grievances, which does not flow from any immediate oppression, and which is not pretended to have been provoked by our mild and gracious King, or by the administration employed by him to execute his authority. No, Gentlemen, it is a rebellion which avows itself to come, not to remove any evil which the people feel, but to retaliate the memory of grievances which, if they ever existed, must have long since passed away—the provocation of 600 years have been ransacked—the sufferings of our ancestors have been exaggerated—our state in former ages, and at various remote times misrepresented—in expectation of extracting from the whole, something like a provocation to justify a revolution, which at the present hour and moment could have no rational foundation.—We live under a constitution which we love; free, affluent, and happy, rebellion can find no incentive in our present condition. We feel the happy effect of beneficial laws, of the just administration of them there is no colour of complaint. But this rebellion is to arise from the ashes of our ancestors, and we are called upon to relinquish our own happiness to vindicate their wrongs—they are represented to have been slaves, and therefore we are called upon not to live contented as freemen. But as there is no motive for rebellion now, neither can it be conciliated hereafter. The manifesto of treason wages eternal war against the British constitution—the resentment of its enemies is implacable—their resolution is fixed and determined—no kindness shall soothe them—no good administration shall reconcile them—no clemency shall assuage them. Rebels they are at heart, and against the mildest administration of our government, they proclaim a perpetual and unrelenting hostility.

Gentlemen, it may be here supposed, that I am from the warmth of my own feelings giving a colour to the case which it does not deserve. I should be sorry to do it. But in the very first paragraph of their proclamation, after avowing a separation from *England*, they tell the government, “that there is a spirit of perseverance in the country beyond their power to calculate or repress,” “that under no change of circumstances can they count upon the obedience of *Ireland*.—Under no aspect of affairs can they judge of its intentions.”—So that let the government be mild and merciful, and the subjects free and contented—let the laws be just, and the administration of them pure,

pure, it will work no alteration in the minds of these enthusiastic reformers—the government may improve, but they are resolved not to imitate its example. They have already devoted their country to all the horrors of civil war, and the inveterate malignity of their resolution will admit of no relaxation.

Gentlemen, having stated to you what the horrid object of the conspiracy was, I shall very shortly submit to you the means which were taken by the Prisoner to carry it into effect. —I have already stated that I consider him as the origin of that rebellion.—I will now state the facts upon which I found that assertion.—His proclamation—for I impute it to him, states that this system of treason has been organized within the last eight months. Now I find this gentleman's arrival in *Ireland* to have been previous to Christmas 1802, which was just eight months before the Rebellion broke out,—and therefore a fair inference arises, that this gentleman's arrival in this country from France, is the source to which the Rebellion may be traced; and the conduct adopted by him leaves little room to suppose I can be mistaken in this conjecture. He might have found the embers of the Rebellion of 1798, but he shortly blew them into life and animation. His machinations had not proceeded far, when, for his security, he found it necessary to change his residence and his name. Accordingly, we find him in an obscure house in *Harold's-cross*, during the spring of the year—There he assumed the name of *Hewitt*, and was visited by persons who enquired for him by that name—while he continued there, he went by no other. Thus, I am instructed to tell you, he proceeded clandestinely, and under an assumed name, for a considerable period of time, not passing much of it within doors at *Harold's-cross*, but acting that part which was adapted to his views—There he continued until early in *March*.

Gentlemen, you all recollect the King's message to the House of Commons, from which it was to be collected that a rupture would probably take place between this United Kingdom and *France*;—that was early in *March*.—That circumstance was a very considerable stimulative indeed, to the treason which had been heretofore set on foot in this country; and accordingly, upon the 24th of the same month, that memorable depot, of which

which you have all heard so much, was taken by the conspirators ; the lease of it is dated the 24th of *March*, 1803. About the same period there were various other depots established in the city to receive arms and ammunition, and among others, one, which is necessary to be mentioned, in *Patrick-street*, where you recollect an explosion took place in the month of *July*.

Having thus embarked pretty deeply and hired several houses in the city for the purpose of carrying on the treason, the Prisoner found, that his residence in *Palmer's* house in *Harold's-cross* was incompatible with the enlarged sphere of action in which he was engaged, and he removed to a house in the vicinity of *Rathfarnham*, in a place called *Butterfield-lane*—for this house he paid a fine of 61 guineas—on the 27th of *April* he got possession of it, and the lease was executed upon the 10th of *June*.—He took that lease under the name of "*Robert Ellis*"—he made the agreement, paid the fine, and signed the leases with the same name ; and if any collateral circumstances were wanting to induce suspicion upon this transaction, I am to state, that one of the witnesses to the lease was a gentleman of the name of *John Dowdall*, a personage of much treasonable celebrity. He too like his companion did not always bear his own name, (and indeed I admit he might have readily changed it for a better.) But the Attorney who carried out the leases happened to be a countryman of *Dowdall's* and perfectly known to him. When *Dowdall* saw him, it occurred to him that the name of *Frazer*, which was the name he assumed, would not answer upon that occasion, and therefore he attested the leases with his own real name. When the leases were executed, and the parties retired from the house of Mr. *Frayne*, who as executor of one *Martin*, was the lessor in the lease, Mr. *Tyrrell*, the attorney, asked him, if he knew the gentlemen, with whom he had concluded the bargain ; he said, he did not, but that his co-executor, one *Rooney*, who had made the agreement originally and received the money might know something about them, but he believed he was equally uninformed with himself. I fear, said Mr. *Tyrrell*, if they are all like *Dowdall*, that they can be about no good purpose. He never was distinguished as a very good subject, and I fear his visit to *Fort-George* has not much improved his constitutional feelings.

Gentlemen, we were at that time in profound domestic peace. Every man thought himself secure. We knew what might

might be expected from abroad and we were prepared to meet it with firmness and composure. But with regard to domestic treason, the mild conduct of the government towards the people, and the clemency extended even to traitors themselves, gave reason to hope we should no longer be disturbed by intestine machinations. But there is an evil spirit in some which no mercy can subdue, and it has been unhappily found that where the generous feelings of the human mind are extinct, it is easier to intimidate than convert. Mr. *Frayne* was deceived, tho' he saw no furniture in the place but one mattress upon which they occasionally slept, as if they were in a camp, though he found them frequently visited by strangers, and yet seldom by more than one at a time, and that they sat up late at night, as if upon consultations, yet he entertained no suspicion for the public safety—if in truth he had suspected their mischievous designs, in one hour the whole party would have been taken. But he did not interfere or molest them. Providence permitted them to proceed that the proof of their guilt may be more notorious.—These persons continued in this retreat, under these suspicious circumstances, until the explosion in *Patrick-street*, which took place on the 16th of *July*; this circumstance made it imperative upon them, to do something quickly, or their treason would be discovered. Accordingly, if I am not mis-instructed, immediately after this explosion, these gentlemen, who had been theretofore occasionally absent for a night or two, altogether deserted their habitation in *Butterfield-lane*, and took up their residence in the City of *Dublin*.

Gentlemen, I impute to the Prisoner that immediately after this explosion, he not only came into town for the purpose of forwarding the rebellion, but that he made that celebrated *depot*, which was afterwards discovered; the place of his residence and his rest.—I trace him to that *depot*, as I would trace any of you to your houses—you will find him there the master of the family—superintending the formation of pikes and ball cartridges—inspecting the ammunition—inspecting the arms—occasionally writing at his desk—once, I think, taking out the original manuscript from which the proclamation was afterwards printed and reading it to the Rebel Guards, which surrounded him—at another time in a playful and sportive mood taking his regimentals from his desk—putting them on and telling his admiring audience what mighty feats he intended to perform in them; and in short, you will find

him in this *depot* what he expected to be in the country at large—the acting manager, making every thing his own, and every person obeying his directions.

Gentlemen, it will appear to you, that there was in that *depot*, a mattress, upon which we suppose that he occasionally slept; if indeed, under such circumstances, it is not going a little too far to suppose, that any man could sleep—his mind must have been of more than ordinary temperature, if his slumbers were not a little disturbed.—Surrounded, as he was, with the implements of death, prepared and collected by himself for the purposes of civil war, and the destruction of his fellow-citizens, he could not easily enjoy soft natural repose. If he did, it must have been produced by that wearying perturbation of mind, agitated by enthusiasm, which listens not to reason, but shaping every thing to its own hopes, and believing that probable which is remotely possible, gives to the phantoms of a disordered brain, the substance and stability of truth.—Under such circumstances, no man could lay his head upon his pillow, and call upon his God to lighten the darkness which surrounded him, and to preserve him from the perils and the dangers of the night. What mind could take refuge in the consolations of religion, while it was occupied in meditations how to drag our gracious Monarch from his hereditary throne, and to immerse him in the blood of his subjects? But the reflections of reason cannot be applied to the ravings of enthusiasm!

I shall be able by reading an extract from a paper, (which was found in the *depot*, and which I personally attribute to the prisoner) to give you a better description than my own of that disturbed and infatuated mind, which throws itself down the precipice, unconscious of its ruin. It is imimitably descriptive of that infatuated state of mind, which unfortunately for him, and unfortunately for mankind, has produced so much modern mischief—speaking of himself.—He says—“I have little time to look at the thousand difficulties which still lie between me and the completion of my wishes—that those difficulties will likewise disappear. I have ardent and I trust rational hopes, but if it is not to be the case, I thank God for having gifted me with a sanguine disposition; to that disposition I run from reflection, and if my hopes are without foundation, if a precipice is opening under my feet, from which duty will not suffer me to run back, I am grateful for that
“sanguine

“ sanguine disposition which leads me to the brink and
 “ throws me down, while my eyes are still raised to the
 “ vision of happiness, that my fancy formed in the air.”

No man, who had not felt enthusiasm, could describe it so well. Ill fated and delirious passion, which bestows the colour of virtue upon the extravagance of vice, and feeds with rapture upon the delusions of hope, to the moment of its dissolution.—But let me call upon the sober understandings of those who never felt its operations, and ask why they participate in its madness? Can the deluded peasantry be brought to join in wild projects, without feeling the impulse which gave them birth—can they listen to the voice of a man who avows, that he acts not from the dictates of reason or reflection, but who flies from both, to the delusions of fancy, nor suffers the delicious dream to evaporate, until the unhappy victim is relieved from his disturbed imagination, and sinks into eternal rest? Do they mean to unite their fortunes to his, or do they not rather imagine, when they hear of “ *The Provisional Government*,” that it is composed of wisdom, caution and prudence?—they little know, that it is a composition of heated minds, and disordered passions, which supersede the judgment, and annihilate the understanding.—If they doubt the fact, I request they may take it from the CONSPIRATOR himself.—Let them listen to *his* voice, if not to *mine*, and let them learn to withdraw from that precipice, the peril of which is not within their calculation, when they embark in his designs.

Gentlemen, to the same unhappy feelings is to be attributed the conduct of the Prisoner upon the day of the attack. I find him in the morning vaunting of his powers and promising victory—I find him in idle exclamations, declaring, that “ he will make the Castle tremble that night !”—I trace him to the depot and there I find him haranguing his men encouraging them to action—inspecting his ammunition anew—arming himself and dressing in his regimentals—I find him clothed in green, assuming the rank and title of GENERAL—I find upon one side of him, the same William Dawdall, as his *Lieutenant General*, and upon the other side a man of no superior distinction, one Stafford, a baker. I am unwilling to mention any names but those which of necessity must appear in the prosecution of this enquiry; and one great object, while enquiry is afloat, is not to bring forward more than must necessarily appear

appear upon the particular indictment before you. A further disclosure would not only be unnecessary, but unjust. Another of his *Lieutenant Generals* whom I may mention was *Michael Quigley*, formerly an eminent bricklayer, and who had been sent to travel for life under *The Banishment Act*. Of three persons, you see, that one was a man whose former conduct had been passed over; and who was not excluded from a residence in this country—another was a man sent into temporary banishment, and who after a slight purgation at *Fort George* was permitted to return—and the third, who had been transported for his treasons, forfeited his life by the very act of returning amongst us. So that when I give this glance of the *Provisional Government*, I am happy again to observe, that I find no new talent, no new property, no new character embarked in this conspiracy; and if the people of *Ireland*, who are not insensible to the influence of rank and character, could but take one glance of the precious materials of which this *Provisional Government* is formed, I think it would for ever cure them of revolutionary speculations.

Gentlemen, I do not wish to give any description of the Prisoner. Let him be spoken of by others— I wish not, in his present unfortunate circumstances, to say any thing that could appear to depreciate his situation, but from his years, he was not calculated to become the key-stone of such an arch—the head of this conspiracy.—The second is a man who was originally known to you as Secretary to the Whig club, who afterwards resided at *Fort George*, and who has latterly been an itinerant clerk with little lawful occupation.—The third had been banished by Act of Parliament for Treason, and the fourth had been a baker in *Thomas street*. These were the principal conspirators, and General officers upon that memorable night, and I do repeat it, that if the deluded people of *Ireland* would take a glance behind the scene and discover this highly vaunted "*Provisional Government*," sitting upon the second floor of a malt house, meditating without means, and marshalling armies that they had never enlisted, if they could see the prisoner, the prime leader of this all powerful authority, and his immediate supporters, composed of clerks, bankrupts and mechanics, and those again surrounded by 30 or 60 persons distinguished only for their crimes; I say, they would form a very different notion of that "*Mighty Consulate*," with whose fortune they have united,
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from that which perhaps they have been for a moment seduced to entertain.

But the appointed hour arrives—the prisoner puts himself at the head of his motley *Banditti*—the party at this time amounts not to 100 men, but there is an expectation of numerous recruits arriving from the country, they are expected to approach through every avenue.—He marches out with his pistols on either side, and his sword glittering in the air—the implements of death are distributed amongst his crew.—He leads them into *Thomas-street*, and even there this mighty army does not amount to as many men as have since attended the execution of any of these unfortunate persons. The people took a moment for reflection—they saw the misery to which they were devoting the country, and the immediate destruction in which they were involving themselves, they refused to assemble at the call of this self-created government, and when the moment of attack arrived after eight months premeditation, there was to be seen a General without an army—Colonels without regiments—Captains without companies.—They had counted recruits upon paper,—they had prepared ammunition, they had stored up arms and had every necessary ingredient for rebellion,—but men.—I am happy to dwell upon every circumstance that can contribute to shew the returning good sense of the people. Their manner of reasoning upon the subject may have been very simple and conclusive: “Shall we enlist in the Rebel Army—*without bounty*—shall we serve in it *without pay*—shall we incur the risk of being *killed* in the battle—and the still greater danger of being *hanged*, if we survive.”—Arguing thus—they find, that his Majesty’s is a more honourable, a more secure and a more profitable service. When they wish to join his ranks they are paid bounty upon enlisting, they receive pay while they serve, they share an honourable danger in the field of battle, and the survivors live to the thanks and the gratitude of their country.—The loyal soldier feels not like the rebel, whose worst fears arise when the danger of the battle is over, when the sword is removed from his view, the still more formidable halter swims before his eyes, and haunts him with a terrific vengeance better adapted to his guilt. Upon this fatal evening, the insatuated few, who composed the mob, came forward only to fly, and that rebellion, which was to have taken the Castle—annihilated the Govern-

Government and dethroned the King, fled precipitately in every direction, and I am at a loss to say whether the General led the way, or became a follower in the flight.

What part did the Prisoner take in that remarkable transaction, after we left him in *Thomas-street* at the head of his paltry band, I am not instructed to detail. The pusillanimous cruelty of his rabble, though it shrunk from combat, indulged itself in the indiscriminate massacre of the unoffending and unprotected. He either continued with them and participated in their crimes, or what is perhaps a more charitable conjecture, he retired to some other malt warehouse to receive in council the keys of his Majesty's Castle, or possibly his understanding returned when it was too late, and finding at length the result of his boasted effort to accomplish the revolution, he and his brother generals fled. But without pursuing them further in their progress, for a minute I will call your attention to the depot which he abandoned and the papers which were found in it—I shall not harass your feelings or distress my own by stating the atrocities of the night—excesses were committed, which disgraced the capital. It is unnecessary and painful to dwell upon them. This famous arsenal of treason so strongly garrisoned at an early part of the evening and which contained such stores of ammunition, was carried by the assault of a private soldier with a pistol in his hand. The contents of this depot now so notoriously known will be detailed to you in evidence. There were found in it several suits of regimentals—some stands of rebel colours, and particularly a small desk, which belonged to the prisoner, and from which it appears he had occasionally taken his regimental coat and several papers, and at which he was in the habit of writing. Amongst the papers found there, was a letter from *Thomas Addis Emmet*, the Prisoner's brother; it is directed to "Mrs. Emmet," but at the inside appears to be addressed and written to the Prisoner himself. I mention it not on account of its contents, but as shewing along with other circumstances the Prisoner's presence in the depot, and his property in the desk:—there was found a song addressed to him under the name of *Robert Ellis, Butterfield*, which not only connects him with the desk and papers, but confirms a former transaction which I stated to you; there was found also a long treatise upon the art of war, which is a further circumstance to connect him with the design; there was also

also found a copy of the greater part of the large proclamation; some of the foremost pages have been lost, but sufficient remains to shew it was an original draft; and that the printed copy was taken from it: it is in various parts interlined and words are altered which give to it every appearance of a composition; and indeed to suppose that a man would sit down to write that out in manuscript, of which he had several thousand printed copies, is a loose conjecture, which, if it should be pretended, it will be scarce necessary to refute. There were also found not only a great number of those proclamations, which have been so often proved upon former occasions; but also another to which I shall shortly call your attention. The large proclamation is addressed by "the *Provisional Government* to the people of *Ireland*," the other is addressed "*to the citizens of Dublin*" only, and it avows, what I before stated, that there is a connexion between this and the late rebellion, and indeed it appears upon every occasion that those who provoked the present were amongst those who escaped the punishment due to the former.

It begins "A BAND of PATRIOTS mindful of their oath and faithful to their engagement as UNITED IRISHMEN have determined to give *freedom to their country* and a period to the long career of ENGLISH OPPRESSION." And what is the oppression which is exercised over us? We live under the same King, we enjoy the same constitution, we are governed by the same laws, we speak the same language, the same fleets and armies protect us, we have common friends and common enemies, in short we are united by every tie of interest, affinity and affection.—But this is justly considered oppression by the same species of logic which considers a connexion with the despotism of France as the means of promoting our freedom.—This proclamation then goes on to state "that from the extremity of the North to that of the South there is an universal co-operation." And I am happy to say that there has been a co-operation very different from that which was projected, a zealous and hearty concurrence of all ranks of people in support of their King and Constitution.—You will recollect, gentlemen, that in the large proclamation there was a studied endeavour to persuade a large portion of the people that they had no religious feuds to apprehend from the establishment of a new government. But the manifesto upon which I am now animadverting has taken somewhat a different course, and has

has revived religious distinctions at the very moment in which it expresses a desire to extinguish them. "ORANGEMEN, add not to the catalogue of your follies and crimes, already have you been duped to the ruin of your country in the legislative union with its tyrant; attempt not an opposition, return from the paths of delusion, return to the arms of your countrymen who will receive and hail your repentance."

"Countrymen of all descriptions, let us act with union and concert, all sects, Catholic, Protestant, Presbyterian, are equally and indiscriminately embraced in the benevolence of our object." I will not apply to this passage all the observations that press upon my mind, because I am sincerely desirous that one feeling and one spirit should animate us all; I cannot but lament that there should be so many sectaries in religion, but trust in God there will be found amongst us but one political faith. But this manifesto is equally unfortunate in every instance in which it prescribes moderation.—Attend to the advice by which it instigates the citizens of Dublin, "in a city each street becomes a defile and each house a battery; impede the march of your oppressors, charge them with the arms of the brave, the pike, and from your windows and roofs hurl stones, bricks, bottles, and all other convenient implements on the heads of the satellites of your tyrant, the mercenary, the sanguinary soldiery of ENGLAND." Having thus roused them it throws in a few words of composure "repress, prevent, and discourage excesses, pillage and intoxication;" and to ensure that calmness of mind which is so necessary to qualify them for the adoption of this salutary advice, it desires that they will "remember against whom they fight, their oppressors for 600 years, remember their massacres, their tortures, remember your murdered friends, your burned houses, your violated females." Thus affecting to recommend moderation, every expedient is resorted to, which could tend to inflame sanguinary men to the commission of sanguinary deeds.

Gentlemen, you must by this time be somewhat anxious to know the progress of the general, who escaped the memorable action which was intended to be fought; and the first place in which I am enabled to introduce him to you, is at the house of one *Doyle*, who resides near the Wicklow mountains. There the general and his companions took refuge, at the commencement of the following

ing week ; they arrived there at a late hour ; the general was still dressed in his full uniform, with suitable lace and epaulettes, and a military cocked hat, with a conspicuous feather. The two other persons I have already mentioned were also decorated in green and gold. They represented themselves as *French* generals, and spoke the *French* language, in expectation of stimulating the people with the prospect of foreign aid. The prisoner, it will appear, occasionally spoke broken *English* ; and that the lieutenant generals followed his example ; there were fourteen men in the party, all armed, thirteen with blunderbusses, and one with a musquet : The generals went to bed with their host, leaving their followers in the true spirit of equality to shift for themselves—you will find them altogether under these circumstances, and observing such conduct as will leave no doubt upon your minds as to who they were, or for what purpose they fled. Indeed if any mark was wanting, they supplied it, for they left one of the small proclamations behind them, which I have already described. From thence, they proceeded to the house of Mrs. *Bagnall*, and finally they left the mountains and returned to the city of *Dublin*. What became of the other persons is foreign to the present inquiry ; but we trace the prisoner from those mountains, to the same house in *Harold's-cross* in which he formerly resided, and assuming the old name of *Hewitt*,—he arrived there upon the *Saturday* after the rebellion ; he had then abandoned his hat, his regimental coat, and the title of general : but he retained his black stock, his regimental breeches and waistcoat, and his Hessian boots ; these he could not with such readiness change. The vicissitudes of fortune at all times call upon the mind for reflection, and even when they are occasioned by the discomfiture of guilt, they draw with them some involuntary share of commiseration. What a distressing picture does this young man exhibit in this afflicting situation !—he who was lately preparing arms and ammunition for the thousands he was to command, and laws and constitutions for the ten thousands he was to conquer, he who was to have been seated in his Majesty's Castle, and to have shaken the British Empire, is fallen from his fantastic dreams, reduced to become a voluntary prisoner, and to confine that ambition which embraced a nation, within the narrow limits of a cell, here he lay a trembling at every blast, and meditating plans, not of conquest, but escape. His chief consolation

solation appears to have been in the occasional society of those friends who received him.

The entire amount of his conversation with them I do not expect to disclose, but it will appear that they turned upon the discomfiture of his schemes, and his defeat at *Thomas-street*, he spoke of the splendor of his uniform, acknowledged he wore it in the battle, and spoke of the depot in such lamentations as a general would regret the loss of his magazine; he spoke of the proclamation as if he was the composer of it; we find him occasionally betraying his fears, by stating that upon any alarm he would get out of the back window of his room and so escape, through the fields; in short numberless circumstances will occur, if they were necessary to corroborate the several witnesses, who will be produced against him. Having remained a month in this concealment, information was had, and Major *Sirr*, to whose activity and intrepidity the loyal citizens of *Dublin* are under much obligation, did confer an additional and a great one, by the zealous discharge of his duty on this occasion. He came by surprise on the house, having sent a countryman to give a singlerap, and the door being opened, the Major rushed in, and caught Mrs. *Palmer* and the Prisoner sitting down to dinner; the former withdrew, and the Major immediately asked the Prisoner his name, and as if he found a gratification in assuming a variety of titles, he said, his name was *Cunningham*; that he had that day arrived in the house, having been upon a visit with some friends in the neighbourhood: the Major then left him in charge with another person and went to enquire of Mrs. *Palmer*, concerning him she said, he was a very proper young man of the name of *Hewitt*, and that he had been in her house about a month; the Major at this moment heard a noise and he found that the Prisoner was endeavouring to escape, but having been struck with a pistol by the person who had the custody of him, he was by that means detained; immediately further assistance was called in from a neighbouring guard-house, and an additional sentry was put upon him: the Major then again proceeded further to interrogate Mrs. *Palmer*; when the Prisoner made another effort, got into the garden through the window, but was at length overtaken by the Major, who at the peril of his life, fortunately secured him; when the Major apologized for the roughness with which he was obliged to treat him, the Prisoner replied "all was fair in war;"—there were found upon his person
a variety

a variety of papers, but it will only be necessary to call your attention to a paragraph or two in one of them, as applicable to your present inquiry; there was another paper found in his room upon a chair immediately near him, and which we impute personally to him, but being found constructively in his possession, it is as strong evidence against him as if found upon his person, and if there was no other circumstance in the case than this paper, it would be sufficient to shew that we have not been mistaken in the accusation which we have preferred against him.

The first paper I allude to appears to have been written by a brother conspirator acquainted with his schemes and participating in his crimes; it shews, I think pretty clearly, that the Prisoner maintained an intercourse with foreign countries; it also shews that every intelligent rebel is not without his share of apprehensions from his allies in *Prance*, and it also gives pretty nearly the same view of the conspiracy with respect to its strength, its union and its respectability, which I took the liberty to suggest upon the first opening of this commission; the first paragraph is this; "I should wish to know particularly from you how matters stand at present (if you would not be afraid,) and particularly what are *your hopes from abroad*, and whether if they pay us a visit; we shall not be *worse off than before*." What a natural reflection for a person who has probably been no inattentive observer of the French Revolution; that revolution commenced for the redress of grievances, which were admitted to exist; but when those were done away, the wild spirit of modern philosophy would not permit it to stop. It sought for an universal Equality in which there should be no one to command, and no one to obey, against the dictates of reason and the ordinances of God. Its first efforts were attended with anarchy and blood, many painful struggles succeeded, until at length the sufferings of the people subsided into submission. Having shaken off the sceptre of a lawful King, they were obliged to take refuge, from their distractions, in the power and authority of a military usurper. They have since endured him in silence—the turbulence of freedom has sunk into a tranquil tyranny. But to preserve the discipline and affections of that army with which he enslaves his people, he finds it necessary to procure it occupation and plunder. He accordingly inflicts it upon every neighbouring nation,

either as a friend or as a foe, robbing the weak and defeating the credulous.

And therefore their infatuation and blindness of conspiracy has not gone so far as not to feel that the moment such an army take possession of this country, there will be an end of law, of justice, and of religion; all will be superseded by a military and merciless despotism, and therefore the conspirator himself, when he invokes *French* assistance to subvert our government, deprecates the notion of their establishment amongst us; but who can let them enter and then prescribe the limits of their course and the extent of their dominion; who can draw a line around them and say, thus far shall death and desolation spread but no farther. Nothing but blind infatuation could wish to make the experiment.—I shall now state to you a passage which I think of the greatest importance, not only as it discloses the opinion of a brother conspirator upon what has happened, but intimates pretty strongly what may be expected in future; the words are—“ He is very desponding however, and “ says, the people are *incapable* of redress and *unworthy* of “ it; this opinion he is confirmed in by the late transaction, “ which he thinks must have succeeded but for their barbarous *desertion and want of unanimity*; as to the French “ invasion, he thinks it may not take place at all, and “ that their plan may be to wear down the English, by “ the expence of a continual preparation against it.”

I shall now trouble you, Gentlemen, with a few extracts from a paper which was found upon a chair near the Prisoner at the time of his arrest. It appears to have been dictated by a wish to arrest the administration of justice and to deter government from pursuing that temperate but inflexible course which it had adopted. Gentlemen, there is no breast so hardened, no conscience so callous, that has not in the progress of guilt some momentary compunctions;—the Prisoner felt them; he heard of the persons who were apprehended, and of this commission which issued for their trial; he expected the conviction and the death of those whom he had contributed to seduce, and having vainly conceived that the threats of his proclamation had intimidated government in the first instance from proceedings by courts martial; he was resolved to try the effect of another effort to suspend altogether the ordinary administration of the law; he accordingly addressed a paper to government, which,

which begins with the words, " It may appear strange that a person avowing himself to be an enemy of the present government and engaged in a conspiracy for its overthrow, should presume to suggest an opinion to that Government of any part of its conduct, or could hope that advice coming from such authority might be received with attention."

It then goes on to state that the writer, " As a man feels the same interest with the merciful part, and as an *Irishman* with at least, the *English* part of the present Administration."

Here you will allow me to observe that in all their proclamations, they endeavour to draw an odious distinction between the *English*, who support in this country the Administration and those of *Irish* birth, who presume to do so. The King's army is to be treated as prisoners of war; but *Yeomen* are to suffer as *rebels*; the same threat is held out to the *Irish Militia*; if taken in battle they are not to be honoured with the appellation of prisoners of war, but are to be tried by court martial and suffer death for their infidelity.

He then says, he will " communicate to them in the most precise terms that line of conduct which HE may hereafter be compelled to adopt, and which, however painful it must under any circumstances be, would become doubly so if HE was not conscious of having tried to avoid it by the most distinct notification." He then proceeds to tell them in the language of an ambassador " that it is not the intention of the UNDERSIGNED, for the reason HE has already mentioned, to do more than state, what Government itself must acknowledge, that of the present conspiracy, it knows comparatively speaking—Nothing."—In this unsuspecting moment of confidence HE little knew that his plans were all developed and his retreat ascertained. But let us follow the paper a little further, and here let me entreat the attention of all parts of my audience,—“ Instead of creating terror in its enemies or confidence in its friends, it will only serve by the scantiness of its information to furnish additional grounds of invective to those who are but too ready to censure it for want of intelligence which no capacity could have enabled it to obtain.”

This passage is directed to those who suppose, when any disturbances take place, that rebellion rages in every parish, and is to be found in every house; who immediately ex-
claim

claim at the supineness of government, if it does not instantly trace by intuition or magic the most remote and hidden sources of treason or disaffection. And who still more charitably conclude, that the Government knows nothing which it does not proclaim, without considering how many things the public interests require to be concealed. When any disaster occurs, such persons delight to go about amongst their friends, describing with wonderful precision the accuracy with which they foresaw every circumstance that has taken place; indulging in a species of *retrospective prophecy*, which certainly can never bring their sagacity to disgrace. But what greater proof need there be of the vigilance of our Government than the necessity which these three *Constitution Mongers* were under of confining their treasons to an obscure house, under feigned names, without any communication or concert with the people. The circumspection of Government had so encompassed them, that their rebellion did not venture out of doors. Is it very surprising, gentlemen, that under these circumstances, and during a period of domestic tranquillity, the prisoner, the bricklayer, and the clerk, should have been permitted for a few months to indulge in a little household conspiracy; concealing arms and ammunition, but overlooking the trifling circumstance of providing men to make use of them. But when their schemes grew bolder, when the circumspection of Government could be no longer eluded, you see how treason was dwarfed by the narrow limits within which vigilance had restrained it. The moment it burst, it evaporated.—Within an hour, and with a force not amounting to one hundred men, this formidable rebellion was extinguished; and the mighty mass of eight months preparation melted into nothing.

This paper then interrogates, “Is it only now we are to
 “to learn, that entering into conspiracy exposes us to be
 “hanged?” I do protest, from the readiness with which some men enter into treasonable pursuits, it would appear as if this salutary lesson remained to be taught, and I wish that no man would embark in these dangerous projects, without seriously asking himself, whether he is prepared to submit to the forfeiture, which will be incurred by his offence—the loss of life and of fortune, and the abandonment of a wife and family to the pains of want, and the reproaches of the world. It further asks, “Are the scattered instances
 “now to be brought forward, necessary to exemplify the
 “statute?”

“statute? If the numerous striking examples which have already preceded were insufficient.—If government can neither by the novelty of punishment, nor the multitude of its victims, impress us with terror; can it hope to injure the body of a conspiracy impenetrably woven as the present, by cutting off a few threads from the end of it.”

Here, in a very feeling pathetic address, the government is called upon not to sacrifice the victims in their possession, because they were not the heads of the conspiracy, but as expressed in this paper, a few threads at the end of it.

Gentlemen, I could wish that such feelings and compassion had come upon the prisoner at an earlier day; that he had revolved in his mind the train of calamities inseparable from Civil War and internal commotion—and, that he had a little adverted to the possibility of punishment, before he had incautiously provoked the commission of the crime.—I could wish he had reflected sooner,—that by heading that furious mob, which burst into *Thomas-street*, more human blood must be sacrificed, than could be shed by this commission, were it to lit for a year—three times a greater number of his rebel friends fell upon that fatal evening than has been since devoted to the offended justice of their country.—But how shall I speak of the loyal and unoffending? that rebellion lasted but a little hour, and within that short period, it deprived our Country of more virtue, than this Commission could strip it of were its Administration to be eternal.

I do, however, sincerely lament, with him, that some of those who have been hitherto brought to justice, were, comparatively speaking, insignificant persons: They were not, I admit, prime movers of the treason. But, I trust, the Commission may not pass over without some distinguished examples.—It is certainly of much greater importance that the web itself should be cut, than that we should merely take a few threads from the end of it.—But it will be found absolutely necessary that both should be done. The unhappy instruments, as well as their principals, must atone for the mischief they have committed.—For though it is true that there would be no rebellion if there were no conspirators, so it is equally true, that there would be no conspirators, if there were no instruments to be worked with. If perpetrators were not easily supplied, and if some unhappy

happy people were not too ready to connect themselves with the avarice and ambition of others, treason could not be harboured for a moment, even in the most heated imagination; and therefore, examples among the lower orders are as necessary sacrifices to justice, as the first conspirator in the land. But I acknowledge the former move to the scaffold with different feelings and an easier mind. The man who by his schemes has forfeited his own life, and sacrificed the lives of others, is doubly guilty, and at the awful moment of retribution must labour under accumulated remorse.

Gentlemen, I have upon all former occasions felt a considerable anxiety, that any warmth which may be induced by the discharge of my duty, should not lead me to exceed it. I have pressed upon every successive jury, mildness, clemency, and moderation. I am sure, in those feelings you anticipate any recommendation of mine. I request, that nothing which has fallen from me, and which I have stated only with the view of making the mass of evidence intelligible, may have any other operation.—My statement is merely intended to make you more readily understand that evidence which shall proceed from others, not to make any impression itself.

If I have said any thing to incite within you an additional indignation against the crime, I am not sorry for having done so; but I do not mean in expressing my horror of the crime to prejudice the criminal, on the contrary, in proportion to the enormity of the offence should the presumption be that he has not committed it. I must also request, if you have heard before this day of the Prisoner's name that you will endeavour to forget it; the vague and uncertain rumours of popular misrepresentation should be entirely forgotten—that which may have been matter of idle conversation, should not work against the Prisoner at the awful moment of trial. You have the life of a fellow subject in your hands, and by the peculiar benignity of our laws, he is presumed to be an innocent man, until your verdict shall find him guilty. But in leaning against a bias you must not take a direction the other way. If upon the whole we shall lay such conclusive evidence before you as no human mind can resist, you will be bound to discharge your duty and to find the prisoner guilty.—But in the investigation of that evidence every former feeling of your minds must be discharged—listen with attention—
give

give the Prisoner the full benefit of any defence, which he may make, and dispassionately consider the nature of his vindication. But on the other hand, Gentlemen, you have a duty to discharge to your King and to your Country. — Many victims have fallen, who undoubtedly may not, abstractedly taken, have incurred any very considerable proportion of guilt. Men, who incapable of deciding for themselves have been absorbed in the guilty ambition of others; but, if it shall appear, that the Prisoner was the prime mover of this rebellion, that he was the spring which gave it life and activity, then I say, no false feeling of pity for the man, should warp your judgment, or divert your understanding. I know the progress of every good mind is uniform; it begins with abhorrence for the crime and ends with compassion for the criminal; I do not wish to strip misfortune of perhaps its only consolation, but it must not be carried so far as to interfere with the administration of public justice. It must not be allowed to separate punishment from guilt; and therefore, if upon the evidence you shall be satisfied that this man is guilty, you must discharge your duty to your king, to your country, and to your God. If on the other hand nothing shall appear sufficient to affect him, we shall acknowledge that we have grievously offended him, and will heartily participate in the common joy that must result from the acquittal of an innocent man.

JOSEPH RAWLINS, *Esq.*

Examined by the ATTORNEY GENERAL.

Q. Are you acquainted with Mr. Robert Emmet, the Prisoner at the bar?

A. I do know him.

Q. Pray, sir, do you recollect seeing him about Christmas last?

A. I do recollect seeing him some time in the month of December last, before his father's death.

Q. Had he been long in Ireland, or did you collect from him that he had been long abroad?

A. I understood from him, that he had been to see his brother in *Brussels*.

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Cross-Examined by Mr. BURROWES.

- Q. Did you understand that from himself?
 A. Yes, from himself.
 Q. You had conversations with the Prisoner shortly after his return?
 A. Yes.
 Q. Had you many?
 A. No.—I had conversations with him shortly after, as I understood from him, his arrival from *Brussels*—at the time his father was dying.
 Q. Did it turn upon Continental politics?
 A. Yes; he said the inhabitants of the *Austrian Netherlands* execrated *Buonaparte's* government.
 Q. Did you not from the whole of the conversation collect, that he highly condemned that government?
 A. It certainly made that impression upon my mind.

GEORGE TYRRELL, Esq.

Examined by the SOLICITOR GENERAL.

- George Tyrrell*
 Q. I believe you are an attorney?
 A. I am.
 Q. Are you acquainted with Mr. Rooney?
 A. I am.
 Q. Where does he live?
 A. No. 62, *South Great George's-street*.
 Q. Were you ever employed by him to prepare a lease to any person?
 A. I was.
 Q. To whom was the lease to be made?
 A. To Mr. *Robert Ellis*.
 Q. Of what premises was the lease?
 A. Of a house and land in *Butterfield-lane*, near *Rath-farnham*.
 Q. Did you prepare the lease?
 A. I did.
 Q. Did you go to any place to have it executed?
 A. I went to the house to see it executed.
 Q. Is that the lease?—(*producing a lease to the witness*).
 A. It is.

Q. Did

- Q. Did you see it executed?
 A. I did.
 Q. Are you a subscribing witness to it?
 A. I am.
 Q. By whom was it executed?
 A. By *Robert Ellis*.
 Q. Do you see that person in court?
 A. I do; he is the prisoner at the bar.
 Q. Did he execute that lease in your presence, in the name of *Robert Ellis*?
 A. He did.
 Q. Who was the other witness?
 A. *William Dowdall*.
 Q. Had you known him before?
 A. I knew his name and person, but was not acquainted with him.
 Q. Where did you go to have the lease executed?
 A. To the house itself.
 Q. Whom did you see there?
 A. *Mr. Ellis*, *Mr. Dowdall*, and another person, sitting at dinner.
 Q. Was that in the house demised by the lease?
 A. Yes it was.
 Q. Did he execute the lease there?
 A. Not immediately.—He went from that to the house of *Mr. Frayne*, which joins the premises, and there the lease was executed.
 Q. You say that *Mr. Dowdall's* person was familiar to you?
 A. It was.
 Q. What part of the country did he come from?
 A. He lived near *Mullingar*.
 Q. And you are a native of that country?
 A. I am.
 Q. Did you know any thing respecting *Dowdall* before?
 A. I heard ———

Mr. BURROWS. You cannot give evidence from hearsay.—The witness must speak from his own knowledge;

LORD NORBURY. No doubt he must, his hearsay is not evidence.

MR. SOLICITOR GENERAL. My Lord, I did not intend to offer such evidence.—I had interrogated the witness as to his *knowledge*, and finding he can only answer from *hearsay*, I do not press the question.

Q. At what time was the lease executed?

A. In the month of *June*.

Q. Was it executed the day it bears date?

A. It was.

Q. Had you ever seen the Prisoner before to know what his name was?

A. No.

Cross-Examined by Mr. MAC NALLY.

Q. Did you ever see the Prisoner before?

A. No.

Q. You never saw Mr. *Ellis* since?

A. Not by the name of *Ellis*.

MICHAEL FRAYNE.

Examined by Mr. PLUNKET.

Q. Had you been executor to a person of the name of *Martin*, an attorney?

A. He appointed me an executor, but I never acted.

Q. Who was the other?

A. *James Rooney*, a Brush-maker, in *Great George's-street*.

Q. Had *Martin* any house or property to be disposed of?

A. He had.

Q. Where situated?

A. In *Butterfield-lane*, near *Rathfarnham*.

Q. Do you recollect any application by any person for taking it?

A. I do.

Q. When

Q. When?

A. I believe upon the 21st of *April*—I was going through *George's-street*, and stopped at *Rooney's* door.—He told me he had a gentleman in the parlour.

Mr. BURROWES. I must object to the witness stating any conversation with *Rooney*.

Q. Did you go into the parlour?

A. I did.

Q. Did you see any one there?

A. I did—a gentleman who went by the name of *Ellis*, to whom Mr. *Rooney* introduced me, and said, he was to be my neighbour.

Q. What passed?

A. Mr. *Rooney* said he was after getting sixty-one guineas fine, and that the gentleman was to pay sixty-one guineas a year.

Q. Look about, and try if you see that person?

A. That is the gentleman (*pointing to the Prisoner*).

Q. You have no doubt that is the person?

A. Not the smallest in the world.

Q. Was that the gentleman who paid the fine of 61 guineas?

A. That very gentleman—there was no other present.

Q. You live in *Butterfield-lane*?

A. Yes.

Q. Did you get any direction about giving possession?

A. Yes, as I was upon the spot, I was desired to give possession to any one who should come from Mr. *Ellis*.—Upon the 23d, a servant came to me from Mr. *Ellis*, with a note—but I do not recollect, whether the note was from Mr. *Rooney* or Mr. *Ellis*.—I walked over to the place and gave the servant possession.

Q. You live near the place?

A. Very near.

Q. Had you any opportunity of seeing the conduct of that person afterwards?

A. Mr. *Emmet* did not come for a fortnight after the servant had got possession—there were workmen making up the fences and doing other things—It was a fortnight after that I saw him there.

Q. Did you see any other person there with him?

A. I did.

A. Did

Q. Did you know them ?

A. Only one who signed his name, *Dowdall* ; there was another person there, but I do not think I would know him.—They kept themselves in such a manner that they did not make free with me, nor did I think proper to be free with them.

Q. About how long did the Prisoner continue to reside there ?

A. As near as I can examine or consider, not more than two months—for in *June* the lease was executed ; he came in a fortnight after the agreement was made, which was the 21st of *April*, and I did not see him for a fortnight before the breaking out of the disturbances.

Q. He got possession before the lease was executed ?

A. He did.

Q. Had you an opportunity of making any observation upon the manner in which these two persons lived while at *Butterfield* ?

A. They lived very quiet—no noise, nor drink—they lived in a sequestered manner, as if they did not wish to see any people.

Q. Did they live constantly there ?

A. I met them very often on the road, going to town, though I did not speak to them, as they did not make free with me.

Q. Did you see how the house was furnished ?

A. Only the day the lease was executed.—The Attorney called upon me and asked me, what kind of people they were ?—I said, I did not know ; that they were an odd sort of people—we went there to have the lease executed—we rapped at the door—and the servant said, her master would come down—we walked into the garden, and Mr. *Ellis* came down—Mr. *Tyrrel* said he had the leases in his pocket, and as he was going circuit, he wished to have them executed—Mr. *Ellis* brought us into the parlour, where were two other persons at dinner—they asked us to dine—but there being no chairs, we felt a little awkward, and I said I had dined, and that Mr. *Tyrrel* was to go to town—I brought Mr. *Tyrrel* over to my house with Mr. *Ellis*—there the leases were executed.

Cross-Examined by Mr. BURROWS.

Q. Have you often seen Mr. *Dowdall* ?

A. I have.

Q. Did

Q. Did you ever hear him go by any name but that of *Dowdall* ?

A. I never heard his name but on that day ;—he was with the Prisoner back and forward.

By Mr. *Emmet*.

Q. Did you ever see Mr. *Dowdall* lie there ?

A. I do not know whether he did or not—I never saw him in a bed-room.

By Mr. PLUNKET.

Q. Can you tell whether Mr. *Emmet* slept there or not ?

A. I can not, only one morning I called there with Mr. *Rooney* and the maid said he was not up.

By Mr. BURROWES.

Q. You considered Mr. *Emmet* as the inhabitant of the house ?

A. I did.

Q. Did you ever see any parties there, to dinner or for any other purpose ?

A. No, I never saw any party there of any kind.

JOHN FLEMING,

Examined by Mr. MAYNE.

Q. Pray, *Fleming*, where did you live in the last year before the 23d of July ?

A. At *Dillon's*, The White Bull.

Q. Where is that ?

A. In *Thomas-street*.

Q. A public house I believe ?

A. Yes.

Q. Were you in any employment there ?

A. I was ostler, Sir.

Q. What countryman are you ?

A. County *Kildare* man.

Q. About how long had you lived at *Dillon's* ?

A. From harvest last.

Q. Do you know the lane called *Mafs-lane*, or *Mar-shalsea-lane* ?

A. I do.

Q. Is

Q. Is it convenient to *Dillon's* house ?

A. *Dillon's* yard reaches to *Marshal-lane* ; getting the cars in is from that lane.

Q. From what street, to what street does it run ?

A. From *Dirty-lane* up to the *Marshalsea*.

Q. Were you ever in any particular house or store in that lane ?

A. I was in that store ; the *depot* as it is now called.

Q. It opens into *Marshal-lane* ?

A. Yes.

Q. And part of it is next *Dillon's* premises ?

A. Yes.

Q. How came you to be there, did you know any people there ?

A. I did, different people more than I can mention at present.

Q. Were you in confidence with them ?

A. I was so far in confidence with them that I brought them ammunition and other things ; I obeyed the orders of my master, and he desired me to do what they bid me.

Q. Then you brought several things there ?

A. There were several things brought throughour yard, and some from *Dirty-lane*.

Q. About how long were you in this store before the 23d of *July* ?

A. I cannot say ; I knew it a few days after it was taken from Mr. *Coleman* ; I was told, it first was for a timber yard, but afterwards I was told the business it was for.

Q. Were you often in it before the 23d *July* ?

A. Sometimes three or four times a day, sometimes once or twice a day, sometimes to the door :—Of a day I had a throng I did not communicate with them.

Q. They knew you were a person who had permission to go in there ?

A. They knew I had liberty to go in or out without asking me any questions.

Q. What did you first see there ?

A. First, making pike handles ; secondly, heading them.

Q. With the iron part do you mean ?

A. Yes.

Mr. BURROWS. My Lord, I must object to this evidence as not affecting the Prisoner at the bar.

Mr.

Mr. MAYNE. We will connect it with the Prisoner at the bar, at present we offer this evidence as shewing a conspiracy and the preparations made for it.

Lord NORBURY. As proving a general conspiracy, it is admissible evidence; and I hope the trial will not be embarrassed by objections that do not bear argument; the constant practice is first to prove a general conspiracy, and then to shew the prisoner connected with it.

Mr. MAC NALLY. In Hardy's case the acts of the Prisoner were first proved, and then they gave evidence to shew the extent of the conspiracy.

Mr. MAYNE. Q. Did you see any other kind of arms in that store-house beside pikes?

A. I saw blunderbusses, firelocks, and pistols.

Q. About how long before the 23d of *July*, might you have seen them?

A. I saw some shortly after they took the place first.

Q. Can you tell how long before the 23d of *July* they took the place first and began to store it?

A. I cannot say.

Q. Was it a quarter of a year?

A. It was more than a quarter of a year they took it.

Q. Did you see many of the blunderbusses, pistols and firelocks brought there?

A. I did.

Q. Did you see any thing done with any ammunition?

A. I saw them making cartridges.

Q. Was there much of that?

A. They made a great deal of them, more than I can describe.

Q. (*By the Court.* What kind of cartridges?

A. Ball cartridges.)

Q. Look at the Prisoner at the bar?

A. I know him—Mr. *Emmet* there.

Q. Have you seen him before?

A. I have.

Q. When did you see him first to know him?

A. The *Tuesday* morning after the blowing up in *Patrick-street*.

Q. Was there an explosion there?

A. So it was mentioned, there was a man blown up there.

G

Q. Was

Q. Was that the first time you saw him?

A. The first time to know him.

Q. That was a week before the 23d of July?

A. I cannot say.

Q. Where did you see him?

A. In the lane; I opened the gate of the yard to let out *Quigley*, and he met Mr. *Emmet* and *Palmer*.

Q. Where did he go to?

A. Into the store.

Q. The place you have been describing?

A. Yes.

Q. (*By the Court.* Who went into the store?)

A. *Palmer* went away to send in ammunition, and the others went in.)

Q. How do you know it was for ammunition?

A. They asked me for three sacks.

Q. Was the Prisoner present?

A. He was; I told him they had got sacks before which were not returned: that I was accountable for them, and got them only from people who had corn and other things.

Q. How did you know it was for ammunition?

A. I was told of it.

Q. Was the Prisoner present?

A. He was.

Q. What was said?

A. They said the ammunition was removed from *Patrick-street* to another place, and they went to remove it and have it examined at the store.

Q. Did you see the Prisoner after that morning in the store?

A. I did.

Q. Did you see him often?

A. Mostly every time I went in I would see him.

Q. Were you there every day?

A. Mostly every day, and sometimes three or four times a day; I saw him every day either in the store or at *Dillon's*.

Q. When you saw him in the store, did you see him do any thing?

A. From the instant he came in, they would not do any thing without applying to him.

Q. Then he directed the business which was going on?

A. He did.

Q. He

Q. He knew of the making of the pikes and other things?

A. He was the head man of it: he gave directions to Quigley, and he to the others.

Q. Did you know any thing of that Quigley before; or what situation in life was he in?

A. I never saw him, to my knowledge, till I saw him there.

Q. What line of life was he in?

A. I was told—

Mr. BURROWS: I object to the witness stating what he was told, unless it was in the presence of the Prisoner.

Q. What was the general account or reputation of his trade; did you happen to hear it mentioned in the presence of the Prisoner?

A. In the presence of Mr. Emmet? No; I never heard Quigley mention it in his presence.

Q. Did you hear any thing read in the store?

A. I heard a little sketch; I did not take very much notice of it.

Q. Who read it?

A. Mr. Emmet.

Q. What was the purport of it?

A. That every officer, non-commissioned officer, and private should share equally every thing they got; and have the same laws as in France.

Q. What was it they were to share?

A. What they got when they were to take Ireland, &c. Dublin.

Q. Did you see any uniform clothes making there?

A. I saw green jackets making.

Q. In that store?

A. Yes.

Q. Who was making them?

A. Different taylorers.

Q. Can you name any of them?

A. Yes; there was one Colgan.

Q. You need not mention any others;—you saw him there?

A. I did.

Q. As I understand, you were permitted to hear and see every thing going on?

A. I was.

Q. Did you hear what these uniforms were for?

A. I suppose they were for officers and non-commissioned officers.

Q. Did you see any particular uniform?

A. I did.

Q. What sort was it?

A. A green coat with gold lace.

Q. Was there much lace?

A. There was upon the sleeves and the skirts; and there were gold epaulettes, like a general's dress.

Q. Did you see any person do any thing with it?

A. The Prisoner took it out of a desk, and shewed it to us all there one day.

Q. Where was that desk?

A. In the store.

Q. Whereabouts?

A. In the first loft.

Q. What did it stand upon?

A. I can't say whether upon a frame or some boards.

Q. Look at this, (*showing a desk, which was put upon the table;*) was it like this?

A. It was the same; to my opinion this is it.

Q. You saw the Prisoner take out of the desk there, and which you think is this, the fine uniform you described?

A. I did.

Q. About what time before the 23d of July did you see him take it out first?

A. I cannot rightly say.

Q. Was it a week?

A. It was a few days.

Q. Was there any other desk or thing of that kind in the store but one?

A. I never saw any but the one.

Q. Were you much through the store?

A. I was in every part of it, and there could not be a desk in it unknown to me.

Q. Did you see Mr. Emmet do any thing at the desk besides taking out the uniform?

A. Not with regard to uniforms.

Q. But did you see him do any thing else there?

A. I saw him take out papers, and put papers into it.

Q. Did you see any other person go to that desk?

A. Quigley did.

Q. Was

Q. Was there any other ?

A. Not to have any thing to say to it.

Q. Did you at any time see there, persons having the appearance of soldiers ?

A. There were two men ; I was informed by themselves they deserted from the barracks.

Q. Were they received there ?

A. They were.

Q. Did they stay there ?

A. They did.

Q. Were you in that store upon the evening of the 23^d of July ?

A. I was.

Q. Did you see the Prisoner there that day ?

A. I did.

Q. Did you see him in any particular dress that evening ?

A. I saw him when he dressed himself in his uniform.

Q. What uniform ?

A. The green coat with gold epaulettes.

Q. Did you observe the rest of his dress, besides his coat ?

A. Yes : I observed he had a white waistcoat and white pantaloons, and a pair of new boots.

Q. Did you observe his hat ?

A. He had a sword, and a hat and white feather.

Q. Was it a round or a cocked hat ?

A. It was a cocked hat ; an officer's hat.

Q. Can you say whether he had any sash on ?

A. He had a sash on.

Q. Had he any other arms but the sword ?

A. He had a case of pistols.

Q. (By the Court. What colour was the sash ?

A. I can't say ; because it was only by candle light I saw him dressed)

Q. Did you hear him use any particular expression that evening when he was dressing ?

A. Yes :—When he was dressed, he asked for a big coat.

Q. Did he say for what purpose ?

A. He said it was to disguise his uniform till he went to the party that was to attack the castle.

Q. Did

Q. Did you see any other uniform of this particular kind with gold lace, except the one which the Prisoner had?

A. I did.

Q. How many?

A. *Quigley* and *Stafford* had uniforms of that kind; but only one epaulette. *Quigley* had a white feather, and *Stafford* a green one.

Q. Did you know *Stafford*?

A. I did.

Q. What was he?

A. A baker, in *Thomas-street*.

Q. Were there many people of that party working at the pikes, making cartridges, bringing in arms, and receiving orders?

A. There were a good many.

Q. How many do you suppose were there upon the 23d of July?

A. More than I can mention.

Q. How many do you think?

A. There were fifty men, as far as I can judge, in the depot.

Q. Were there more at that time than upon any former evening?

A. A good many.

Q. Did they get any arms there?

A. They did;—pikes, pistols, blunderbusses and firelocks, and ammunition according.

Q. Did they get them that evening?

A. They did.

Q. Did they take them out of the store?

A. They did.

Q. To what place did they go?

A. Towards *Thomas-street*.

Q. Did you see the Prisoner going out, or afterwards?

A. I saw him at the door—he drew his sword, and called out, "Come on, boys," and his attendants did the same.

Q. About what hour do you think that was?

A. As close as I can guess, it was nine o'clock.

Q. Was it dark, or was it growing dark?

A. The lamps were lit.

Q. Pray did you see which way the Prisoner went?—Did he go with the party?

A. He did.

Q. Which

Q. Which way did you see them go?

A. I was with them myself. We went into *Dirty-lane* and up to *Thomas-street*, and they began to fire.

Q. Were you there when that began?

A. I was.

Q. (*By the Jury.*) You say, when they got to *Thomas-street* they began to fire?

A. As soon as they got into *Dirty-lane*, they began to fire.

Q. Was Mr. *Emmet* with them then?

A. He was in the centre of them.

Q. What name did he generally go by in the stores?

A. The first name I heard was Mr. *Ellis*.

Q. Did he answer to that name when spoken to?

A. I never heard him called any other name.

Q. Did you hear him called by that name?

A. I did.

Q. In the course of the time you were there, did you hear any thing among the people about their mode of proceeding, the time, or the notice of it?

A. The most particular in that respect which I heard was, that they were making preparation to assist the *French* when they would land.

Q. As I understand, it was given out there, that the *French* were expected?

A. Undoubtedly it was;—I was told so.

Q. In the store?

A. Yes; and out of the store.

Q. Did you hear the Prisoner called by any name of rank or title?

A. I was often told he was to be *The General*, or head of the business.

Q. Did you hear that stile given to him?

A. I did.

Cross-Examined by Mr. BURROWS.

Q. I believe you had been frequently in these stores, before you ever saw the prisoner?

A. I was.

Q. And you said that all persons you found there readily admitted you?

A. They did.

Q. Were

Q. Were there many persons there before you saw Mr. *Emmet* there?

A. There were some—one in particular that I knew.

Q. Was there many, whether you knew them or not?

A. I cannot say; I did not know their names.

Q. Did you know what all these military preparations were for?

A. At the time I went in?—Yes, I did.

Q. Did you make any discovery of your knowledge of it, in order to prevent it?

A. Never—while the preparation was going on, I never did.

Q. When did you first give any information?

A. I cannot rightly tell.

Q. Was it after the 23d of *July*?

A. It was.

Q. How long after?

A. I cannot well inform you.

Q. Was it a week, or ten days, or more?

A. It was near a month, I believe.

Q. Were you taken a prisoner under a charge of being guilty of High Treason.

A. I was taken under suspicion of being in that rebellion that night.

Q. Where were you taken?

A. At *Ballinderry*, in the County of *Kildare*.

Q. Are your wounds healed?

A. Yes, they are.

Q. Were they at the time you were taken?

A. I never got the least wound, but a little scratch upon the leg.

Q. When did you get that?

A. In the night of the 23d.

Q. After the party quitted the depot?

A. Yes.

Q. Upon your oath, have you been promised any pardon in consequence of making discoveries?

A. I have not been promised any thing.—I gave myself up to Government to become a good subject.

Q. Do you expect to be prosecuted?

A. I cannot say.

Q. What do you believe?

A. To the best of my opinion, I cannot say.

Q. On

Q. On your oath, do you not think that you would be prosecuted, if you did not give information?

A. If there would be evidence against me, surely I would be prosecuted.

Q. On your oath did you give the information you did, from a horror of the rebellion, or in hopes that it would be of service to yourself?

A. I gave it from a horror of the rebellion.

Q. And not from an expectation of being benefited thereby?

A. I never expected any thing only in regard of Government I gave information.

Q. In order to benefit the Government?

A. Yes.—I had no interest in it.

Q. Was that your only motive—merely to serve Government and not yourself?

A. To serve Government and from a horror of the rebellion.

Q. You say that Mr. Emmet put on a great coat to hide his uniform?

Mr. MAYNE. I beg pardon, the witness did not say that. He said, that Mr. Emmet asked for one.

Mr. BURROWES. Did he get a great coat?

Witness. No, he did not.

Q. (By the Court. What name did Quigley go by?

A. Graham.)

Terence Colgan.

Examined by Mr. TOWNSEND.

Q. What is your trade?

A. I am a tailor.

Q. Do you recollect the insurrection which happened in Dublin upon the 23d of July?

A. I do recollect to hear talk of it.

Q. Do you recollect the Sunday before that?

A. I do.

Q. Where were you upon that day?

A. I came into town that day.

H

Q. Do

Q. Do you recollect meeting any person in Queen-
street?

A. Yes; a friend of mine who brought me to drink.

Q. To what house?

A. To *Thomas Street*, to a house I was since told be-
longed to *Mr. Dallen*.

Q. Did you drink there?

A. I did; a good deal.

Q. Is it a public house?

A. I believe it is a carman's-inn.

Q. Do you know the owner?

A. I do, *John Fleming*.

Q. You drank a great deal, you say?

A. I did.

Q. Were you completely drunk?

A. I believe so—I fell asleep.

Q. Where did you find yourself when you awoke?

A. The next morning I found myself in a place I never
was in before.

Q. Was it day-light?

A. It was.

Q. What place was it?

A. A large out-house—full of arms and poles.

Q. How were the poles placed?

A. Some against the wall and some were lying down.

Q. Were there any spikes to the poles?

A. There were.

Q. Did you see any people there?

A. There was a number.

Q. Were you asked to do any thing?

A. I was set to work to make white pantaloons and
green jackets.

Q. Look at the prisoner at the bar.—Did you see him
there?

A. I did.

Q. How did he appear among them?

A. Indeed he seemed to be the chief in it.

Q. Did you hear him give any orders?

A. I think he did; it was by his directions every thing
was done in it.

Q. Did he see you at work?

A. Yes, he did.

Q. Where

Q. Where did you commonly work while you were there?

A. At first I worked in a place off of it, where there were some mattresses, and then I was removed to another floor.

Q. Did you see any desk there?

A. I did.

Q. How many?

A. I do not recollect more than one.

Q. Look at this.

A. I did not take so much notice as to swear to it.

Q. Was it like this?

A. It was.

Q. Did you ever see Mr. Emmet go to the desk?

A. I did.

Q. What was he doing at it?

A. Taking things out, but I do not recollect what.

Q. Did you ever see him write there?

A. I think I did, but I have a bad recollection.

Q. Did you see any arms there besides pikes?

A. Yes, I did; I saw blunderbusses and pistols.

Q. Did you see any muskets?

A. I saw two soldiers muskets, brought there by two messengers as I was told there.

Q. Did you see Fleming, the ostler there?

A. I did.

Q. Of what sort of cloth were the jackets and pantaloons made; was it coarse or fine?

A. Coarse cloth.

Q. Do you recollect the name by which the gentleman now upon his trial was called there?

A. I do not.

Q. Did you hear in that place for what purpose these preparations were making?

A. I believe I did, but I cannot particularly say.

Q. How near was that house you were in to Dillon's inn?

A. The next door.

Q. To the back-yard?

A. I think so.

Cross-examined by Mr. MACNALLY.

Q. Where do you live when you are at home?

A. In Lucan.

Q. De

- Q. Do you live at home at present?
- A. No.
- Q. Where do you live now?
- A. In the tower.
- Q. Do you swear that?
- A. No I am now upon the benches.
- Q. Was it accident that brought you to town from Lucan?
- A. No it was not, I came upon business.
- Q. Honest business I suppose?
- A. I came upon honest business, I came to town to Counsellor Vicars to get work.
- Q. Does he live in *Thomas-street*?
- A. No, he lives in *Holles-street*.
- Q. Then what brought you to *Thomas-street*?
- A. A friend of mine.
- Q. Do you not believe that your friend was a great rogue?
- A. He was a great foe to me.
- Q. He was a great rebel?
- A. I believe so.
- Q. Had he no suspicion of your being from Lucan?
- A. I can't say.
- Q. What, did you get drunk without speaking together?
- A. We said a great deal I suppose, but I do not remember it.
- Q. You recollect that you fell asleep?
- A. I do.
- Q. When you awoke in the depot did you think that you were dreaming?
- A. I did not know rightly where I was.
- Q. When you awoke did you find yourself working?
- A. No.
- Q. When then did you go to work?
- A. I can't say.
- Q. Was it by day-light or candle-light?
- A. By day-light.
- Q. Was there no candle there at any time?
- A. There was not.
- Q. Do you know *Fleming*?
- A. I do.
- Q. Is he as honest as yourself?
- A. I suppose so.

Q. If he said he saw candles there, would he swear true?

A. I can't say, he had more recourse to the place than I had.

Q. Could there be a candle there without your seeing it?

A. There might.

Q. You said you saw the prisoner there, will you swear it was Mr. Emmet you saw and not another person?

A. I saw Mr. Emmet there, but I will not say that I did not see another person there.

Q. Did you think yourself in hell when you awoke?

A. I would rather be out of it.

Q. Where did you go when you got out?

A. To Counsellor Vicars.

Q. Where were you taken?

A. In Lucan.

Q. Did you tell what you saw to Mr. Vicars?

A. I did not.

Q. He would have gone to a magistrate?

A. He would.

Q. And prevented much mischief?

A. I believe so.

Q. How came you to be taken?

A. I can't say.

Q. Was it because some person gave information against you?

A. I suppose so.

Q. And then you recovered your speech and gave information?

A. Yes.

Q. Were you sworn to it?

A. No.

Q. Were you never sworn till you came upon the table?

A. No.

Q. When did you give information?

A. Some time last week.

Q. You heard of the rebellion—of the murders which were committed—and the mischief which was done, and never recollected or mentioned you were in the depot until you were taken?

A. No.

Q. Would

Q. Would you have given information till the day of judgment, if you had not been taken?

A. I believe not.

Q. Was it for the sake of public justice that you gave information?

A. It was for the sake of my family.

Q. How for the sake of your family?

A. To recover my liberty to earn bread for them.

Q. But you would not have told any thing of the matter if you had not been taken?

A. No.

Q. (*By the Jury.* Do you believe you fell asleep in the depot, or was you carried there while you were asleep?

A. Indeed, I believe I fell asleep there.)

Patrick Farrell,

Examined by Mr. MAYNE.

Q. Do you remember Saturday night the 23d of July?

A. I do.

Q. Where did you live before that time?

A. I lived with Mr. Ormsby in Thomas-street.

Q. What business does he follow?

A. A Grocer.

Q. What was your business?

A. Steward to him.

Q. Do you remember any thing particular happening to you on the Friday night before the 23d of July?

A. Nothing particular happened—but I was passing by that night upon business of my master's.—I passed through that lane where the depot was afterwards found.

Q. About what time?

A. Between nine and ten o'clock.

Q. You know where that store of arms and ammunition was found?

A. I do.

Q. What lane is it in?

A. In Marshal-lane.

Q. Did you stop there?

A. At no place but at that very place.

Q. What place?

A. That malt-house.—I heard a noise in it—and thinking it was a waste house, I was surprized.

Q. What

Q. What happened there when you stopped?

A. I was not over two minutes there, when a man opened the door and caught me, and asked me what I was doing there?

Q. What was done with you?

A. I was brought in.

Q. Were there any other people there, besides the man who brought you in?

A. There were.

Q. How many as you can tell?

A. Between fourteen and fifteen—as near as I can guess.

Q. Were you kept there?

A. I was asked, what brought me there? or was I ever there before?—I said, I was not.—They asked me, did I know Graham, I said, I did not—they asked me, what brought me there? I said, nothing—but that I was going by and heard a noise—one of them said I was a spy; and called “Drop him immediately.”

Q. What did they mean by that?

A. To shoot me as I thought.—They brought me up stairs, and after some consultation, which I could not hear, they agreed to wait for some person to come in.

Q. They asked you, did you know Graham?

A. Yes.

Q. Did any person come afterwards?

A. Yes, a person came in about half an hour.

Q. Did the person whom they agreed to wait for to decide upon you come in?

A. Yes, he did.

Q. Did he question you?

A. He asked me, did I know Graham.—I said not,—at the same time a light came in, and I looked about me, and was asked, did I know any body there—I knew Quigley, and said I knew him.—I was asked, “Where?” I said, about five or six years ago at Maynooth, as a bricklayer or mason.

Q. You knew him?

A. I did, and I understood he was the person, who went by the name of Graham.

Q. How long were you kept there?

A. From that time till about the same time next night.

Q. Then

Q. Then the person who came in decided for you, and you were not dropped?

A. He ordered me into care, and desired me not to be let out.

Q. Look at the bar?

A. That is the gentleman who came in—(pointing to the prisoner.)

Q. Are you sure that is the gentleman who came in and decided for you, that you were not to be killed?

A. I am positively sure.

Q. You say, you were kept the whole of the next day—Did you see him often that Saturday?

A. At different times in and out.

Q. Did you see him take any part?

A. I did see things done by his directions in it.

Q. Did you see him often that day?

A. I did.

Q. You say you were kept a prisoner?

A. I was till near nine o'clock, when I was set to work about the house among the rest.

Q. What did you do?

A. The first thing was to take in boards from off a cart.

Q. Was any use made of them?

A. I saw them made into cases and pikes put in them.

Q. How do you mean made into cases?

A. The boards were nailed together and pikes put into them.

Q. Did you observe were there many?

A. There was.

Q. Were any sent out while you were there?

A. There were.

Q. Can you describe more accurately, for the Jury what the cases were?

A. They were made of the outside slabs of a long beam, taken off about an inch or something more thick—four or five inches at each end of the beam was cut off—the slabs were nailed together and these pieces put in at the ends, so that it appeared like a rough plank or beam of timber.

Q. Were they filled with pikes and sent out while you were there?

A. They were.

Q. Did

Q. Did you see any pikes that were not put into the cases?

A. A great number—more than I could reckon, piled up standing against the wall and lying down.

Q. Did you see any other kind of arms?

A. I did,—blunderbusses and pistols.

Q. Were there more persons there in the course of *Saturday*, than there had been on *Friday*?

A. There came a good many in and out—most of them country people.

Q. Had you attempted to escape during the day?

A. I could not get near the door, nor would I be let.

Q. Did you see any other things there calculated for mischief besides what you mentioned?

A. I saw boards with nails drove through them up to the head.

Q. Did you understand the use of them?

A. I heard them express, that they were to annoy the cavalry, by throwing them into the street.

Q. Did you see any bottle machines?

A. I did—there were small bottles, like thumb bottles, covered with shot, and linen and clay, and there was powder within side.

Q. Did you see any other?

A. I did, larger ones, with balls and linen or canvas tied over them and clay also.

Q. Did you see any chains?

A. I did.

Q. Were these things seen by you while the prisoner was there?

A. He was in and out.

Q. What were they doing with these things?

A. I was obliged to do something to them myself—I was brought up and was obliged to fill tubes with powder and put it into the bottles.

Q. Who commanded or gave directions there?

A. All the directions I heard were from the gentleman at the bar—When he was absent, others gave directions; but I understood they were from him.

Q. Did you see any beams of timber there?

A. I did, with hollow tubes like through them, and a three inch diameter hole bored at the top into which powder was put—The tube was also filled with powder and stones were put on the top to keep it down.

Q. Did

Q. Did you see many of them?

A. I saw three or four at any rate.

Q. Did you see any clothes?

A. I saw green clothes.

Q. Any cartridges?

A. I did—ball-cartridges and flints.

Q. Did you see any particular uniforms?

A. I saw three men in the evening dressed in green uniforms.

Q. Was that upon *Saturday* evening?

A. It was.

Q. What was there particular in the uniforms?

A. This gentleman present wore two gold epaulettes, —the other two men but one each. He had also a cocked hat, a sword and pistols.

Q. Was there gold lace upon any part of the coat?

A. There was lace upon the button holes and sleeves.

Q. Were there more people there in the evening than there had been in the morning?

A. Towards evening they were gathering pretty smart into it.

Q. How did you get away?

A. On that evening, when they were carrying away one of these large beams, I was called down to assist, and then I made my escape.

Q. Did you get away before they went to work that evening?

A. They were just going out—the pikes were thrown out and one of these beams was put upon a car which was going off.

Q. How did they throw down the pikes?

A. From the first floor of the warehouse above the ground, they let them fall down, with the spikes uppermost.

Q. About what hour did you leave them?

A. I think about nine o'clock—Lord *Moir*'s bell had just rang.

Cross-Examined.

Mr. MAC NALLY. My Lords, I did not intend to ask any questions of this witness in the way of cross-examination; but at the express desire of my client, I shall be excused

cused in putting such questions as he suggest to me; and which will be considered as coming directly from him.

Q. You say saw Quigley?

A. I did.

Q. The Prisoner wishes to know, what business he is?

A. I do not know what he is; but he was employed about Maynooth as a mason. I knew him, and remember him well, and cannot be mistaken.

Q. Did you see Dowdall there?

A. If I did, I did not know him.

Q. How many people did you see there who appeared to be active men, having command in different situations?

A. There were a good many, and every man very hearty in the business.

Q. Did many go in and out, who had no residence in the place?

A. There did.

Q. What appearance had they?

A. Some of them country people, and some like citizens, and some well-dressed people.

Q. Were there any like esquires?

A. I can't say.

Q. Were you not well fed while you were there, and treated with lenity and humanity?

A. Middling.

Q. You had the same allowance as others?

A. I had a little milk.

Q. Any meat?

A. Not a bit.

Q. Any beer?

A. No.

Q. Whiskey?

A. No.

Q. Any bread?

A. Yes.

Q. Was it cold?

A. It was not very warm.

Q. Did you hear any printed paper read?

A. I did—part of it only.

Q. What did it state?

A. I cannot recollect it all now; but it appeared to me as if the man reading said, that nineteen counties were ready to rise.

Q. Was

Q. Was any thing said about the *French*?

A. Not the smallest, as I heard:—they said they had no idea as to *French* relief, but to make it good themselves.

Q. Do you recollect, that any person objected to the paper when it was read, or that any observation was made as to its being proper or improper?

A. The observation I heard, listening like another, was, that it was very good.

Q. Was there no observation of any other kind?

A. No.

Q. Did you hear any person object, that the paper was too merciful?

A. No, I did not hear it?

Q. (By the Court. How soon after you saw this did you give information of it?

A. Sunday morning, at eleven o'clock.

Q. Was that the next day?

A. Yes.

Q. To whom?

A. To my master.)

Serjeant THOMAS RICE examined.

Proved the large proclamation found in the stores, as upon the former trials.—*Vide Kearney's Trial, page 53.*

Colonel SPENCER THOMAS VASSAL,

Examined by Mr. TOWNSEND.

Q. Do you remember the 23d of July?

A. I do; I was field-officer of the day.

Q. In the course of your rounds, I understand you went to *Marshall's-lane*?

A. Yes.

Q. Did you find that paper there?—(Showing him the small Proclamation, addressed to the Citizens of Dublin.)

A. I did, and many others—I took twelve of them, quite wet: this one has never been out of my possession till I gave it to you.

Q. How long did you remain there?

A. About a quarter of an hour.—I left directions with Major *Greville*, not to allow any person to go in; for there

there was great danger from the quantity of loose powder, and I am surprised it was not blown up before I got there.

Q. You sent the articles which were found there to the barracks?

A. I did; with a party to attend each load.

Q. Did you see any desk in the depot?

A. I saw such a desk as this.

Q. (By the Court. At what hour were you at the depot?

A. Between three and four o'clock in the morning of Sunday. It was considerably after day-light before I was permitted to go any rounds.)

Not cross-examined.

FREDERICK DARLEY, Alderman,

Examined by Mr. TOWNSEND.

Q. Do you recollect the night of the 23d of July?

A. I do.

Q. Do you recollect having been in the depot in *Mrs. Shalsea-lane*?

A. I do.

Q. Did you find that paper there?

A. I did.

[This was a paper directed to Robert Ellis, Butterfield.]

Q. Did you find this paper there? [shewing him another,—*this was the Treatise on the Art of War.*]

A. I saw several other papers there—this was one of them; it was handed to Capt. Evelyn.

Q. Did you mark it?

A. I did not.

Not cross-examined.

HENRY EVELYN, Esq.

Examined by Mr. TOWNSEND.

Q. Were you in the depot on the night of the 22d of July?

A. I was there on the morning of the 24th, before the things were removed.—I went there for the purpose of taking them out of the depot.

Q. Look

Q. Look at this paper [showing him a paper,—this was a manuscript draft of more than half of the large Proclamation, altered and interlined in some places.] Did you find that there?

A. I did.

Not cross-examined.

Robert Lindsay, Soldier.

Examined by Mr. TOWNSEND.

Q. Do you remember the night of the 23d of July?

A. I do.

Q. Was you at the depot?

A. I was employed the next morning in taking things out of it.

Q. Do you know that desk? (pointing to the desk which had been shown to the other witnesses, and which remained upon the table in Court.)

A. I do.—I put it upon an Artillery car.—There was a piece knocked off it here, by which I know it.

Q. Where was it taken from?

A. It was handed down to me from the upper part of the depot.

Q. What was done with it?

A. It was carried to the Barrack with the other things found there.

Not cross-examined.

MICHAEL CLEMENT PRAYNE.

Q. Do you remember Sunday the 24th of July?

A. I do.

Q. You were Quarter-master Serjeant of the 38th Regiment?

A. Yes.

Q. Did you receive any things which were brought to the Barrack that day.

A. I did.

Q. Was that desk brought to the barrack that day?

A. It was.

Q. Was

Good

Q. Was it given to you in charge here?

A. It was, by Col. Vassal—it was put into the Magazine, and the other articles which arrived after were put over it.

Q. Was the Magazine locked?

A. It was.

Q. Who kept the key of it?

A. I had the charge, and kept the key.

Q. Did you open that desk afterwards?

A. On the Monday after I opened it.

Q. Do you recollect any difficulty you had in getting at it?

A. I got two pioneers along with me, having a curiosity to examine it: We were a considerable time before we could get at it, through the heap of other articles.

Q. Did you find any paper in it?

A. I found this letter in it.

[This was the letter signed “Thomas Addis Emmet,” directed to “Mrs. Emmet, Milltown, near Dublin,” and beginning within “My Dearest Robert.”—It had a foreign Post-mark.]

Witness not cross-examined.

EDW. WILSON, Esq:

Examined by Mr. PLUNKET

Q. You are a Peace-officer in the city of Dublin?

A. I am Chief Peace-officer of the Workhouse Division.

Q. Do you recollect the 23d of July last?

A. I do.

Q. Do you recollect any explosion which took place before that?

A. In consequence of an explosion, I visited a house in Patrick-street.

Q. What day was it?

A. The 16th of July,——I found preparations for making powder, and I found pikes, and pike-handles there.

Q. Now

Q. Now Mr. Wilson proceed to state as shortly as you can, the transactions of the night of the 23d of July, as far as you saw them.

Mr. Wilson then gave the same account as upon the former trials. *Vide Kearney's Trial, No. I. Page 37.*

FELIX BRADY, Esq. *Examined.*

Gave the same account as before of his engagement with the Rebels in *Thomas-street*, upon the night of the 23d. *Vide No. I. page 40.*

He then mentioned this additional circumstance, that upon examining the pikes which he carried away, four of them were marked with blood about the points and the rings, and one or two were marked with blood near two feet up the handle.

JOHN DOYLE, Farmer.

Examined by Mr. MAYNE.

Q. Where do you live?

A. At *Ballymeece*, in the parish of *Tallaght*.

Q. How far from town?

A. Seven miles; it is near *Old-Bawn*.

Q. Were there any particular persons at your place, shortly after the rebellion broke out?

A. There was.

Q. Tell the jury what day it was?

A. It was the 26th day of *July*;—at two o'clock in the morning they came to my house.

Q. You were in bed in your house?

A. I was: I had drank pretty heavy, and went to bed between ten and eleven—they come in—a party of people came up to my bed, and I was so heavy asleep, they were stirring and calling me and I could not waken at once.—But when I looked up I saw a party of people, upon which I lay closer than before.—They desired me to take some spirits, which I refused. They then lifted me over into the middle of the bed and I gave them no assistance—they lay down, two of them, one upon each side of me—One of them said “I had a *French General* and a *French Colonel* beside me, “what I never had before”—Which was true enough, I never

never had—I lay there between them for some hours, but between sleep and awake—when I was awake, I found them asleep and then I fell a listening, and I got up and stole out of bed, and I found some blunderbusses and a gun and some pistols.

Q. How many blunderbusses were there?

A. I verily believe there was one again every man of them.

Q. How many persons were there?

A. There were fourteen at breakfast.

Q. Did you look at the persons who were in bed with you?

A. I did.

Q. Look at the Prisoner?

A. I see that young man or boy or whatever you call him.

Q. Was he in your bed?

A. He was—He passed for a *French* officer.

Q. Did you hear him speak?

A. I heard him striving to speak.

Q. What was it?

A. I can't tell, I did not understand it.

Q. Was it *Irish* or *English*?

A. It was neither.

Q. How was he dressed?

A. He did not dress for some time—but afterwards when he was going away in the evening, he put on a coat with a great deal of gold lace and tassels.

Q. What colour was it?

A. It was a dark colour, but I looked more at the things that were upon it, than at the colour of the cloth.

Q. Was there any other person in such a dress?

A. There was one.

Q. Were there any others besides those you mentioned?

A. There were two more walking about outside, while the rest were lying asleep in different parts.

Q. What time did they go away from you?

A. Between eight and nine in the evening.

Q. Did they take their arms?

A. They did.

Q. How was the Prisoner dressed?

A. He put on that coat and a great jock over it.

Q. What were the two men doing outside?

A. I cannot say, if they were not watching for the rest.

K

Q. Which

- Q. Which way did they go?
 A. They turned up the hill.
 Q. Was any paper found after them?
 A. I found one next morning under the table they breakfasted at.
 Q. To whom did you give that paper?
 A. To *John Robinson*; the barony constable.
 Q. Look at this paper.—(*Shewing him one of the small Proclamations.*)
 A. It was exactly like that, having iron-mould upon the back of it; but I cannot read.
 Q. (*By the Court.* How soon after did you give that paper to the Barony Constable?
 A. The *Thursday* after.
 Q. Had you it safe from the time you found it till you gave it to the constable?
 A. I had it locked up.)
Not cross-examined.

ROSE BAGNALL,

Examined by Mr. MAYNE.

- Q. Where do you live?
 A. In *Ballynascorney*.
 Q. How far from *Dublin*?
 A. About eight miles.
 Q. Do you know *Doyle*?
 A. I do; he worked for me some time.
 Q. How far from you is his house?
 A. About a mile.
 Q. Did any particular persons come to your house shortly after the rebellion broke out here?
 A. Not till the *Tuesday* following.
 Q. About what time of the night did they come?
 A. Between eleven and twelve.
 Q. How many came in?
 A. I really did not reckon them. I was told there was about 16 or 17 of them.
 Q. Had they any arms?
 A. They had.

Q. Was

Q. Was there any particular dress among them?

A. Three of them, I think, wore green clothes.

Q. Were they ornamented?

A. They had yellow upon them; but I was so much frightened, I did not observe them.

Q. Were the clothes made in a military way?

A. Yes, sir.

Q. Was there any thing upon their shoulders?

A. Yes.

Q. Was it the colour of gold?

A. It was.

Q. What arms had they?

A. They had some blunderbusses.

Q. What kind of hats had they?

A. They had large cocked hats.

Q. Which of them?

A. Those who wore green.

Q. Did you understand from any of them what they passed for?

A. I heard an alarm that day that there was a parcel of men in arms at *Ballymeece*.

Q. But did you hear them say any thing about their title or rank?

A. I heard one of them called a General.

Q. Can you swear to any of them?

A. I cannot: I was so much frightened I cannot swear to any of them.

Q. Did they sleep in your house?

A. They did, one night.

Q. When did they go?

A. About nine the next night.

Q. You say you were much alarmed?

A. I was indeed, sir, being a lone woman, with some children.

Not cross-examined.

JOHN ROBINSON,

Examined by Mr. PLUNKET,

Q. Are you a barony constable any where?

A. Yes.

Q. Of what barony

A. *Upper-Crofs.*

Q. Do

Q. Do you know *John Doyle*?

A. I do.

Q. Did he apply to you any time in the month of *July* last?

A. He came to me the 27th of *July*, on *Wednesday* about nine o'clock, as we rode into town.

Q. You need not state that; did he at any time hand you this paper (*showing him the small proclamation*)?

A. He did.

Q. When?

A. On *Thursday*, at his house.

Q. Did he tell you of it on *Wednesday*?

A. He did.

Cross-Examined by Mr. MAC NALLY.

Q. You say you got the paper at his house?

A. I did.

Q. Who gave it to you?

A. *Doyle* himself, out of his own hand.

Q. Why did not you say so at first?

A. I did, Sir.

JOSEPH PALMER,

Examined by the ATTORNEY GENERAL.

Q. What occupation do you follow?

A. A clerk.

Q. To whom pray?

A. To Mr. *Colville*.

Q. Do you reside in his house, or with any part of your own family?

A. I resided at a house in *Harold's-crofs*.

Q. With whom pray?

A. With my mother; I have a lodging there.

Q. Do you recollect her having had any other lodger in the month of *January* or *February* last, or in *March*?

A. She had, sir.

Q. Do you recollect, whether a short time since any person was apprehended in your mother's house?

A. There was,

Q. Who apprehended him?

A. Major *Sirr*.

Q. Pray

Q. Pray did that person lodge at your mother's house any time last spring?

A. He did.

Q. Pray, what name did he go by, when he first came to lodge there?

A. *Hewitt*, sir.

Q. Was that *Hewitt*, the same person who was afterwards arrested by Major *Sirr*?

A. Yes, sir.

Q. Pray do you recollect when he left your mother's house last spring?

A. I cannot recollect.

Q. Was it in *February*, *March* or *April*?

A. I cannot say; it was about three months before the time he was taken.

Q. Did he return at any time to lodge in your mother's house?

A. He did.

Q. Will you have the goodness to mention when he returned before he was taken prisoner?

A. About three weeks or a month before he was taken.

Q. When he returned the second time, and before his arrest, under what name did he pass?

A. *Hewitt*, sir.

Q. Do you recollect, how he was dressed, when he returned?

A. Yes.

Q. Mention it?

A. He had a brown coat, white waistcoat and white pantaloons, and Hessian boots.

Q. What were the pantaloons made of—linen or cloth?

A. They were cloth.

Q. What stock had he on?

A. A black stock.

Q. During the last month did he receive any visitors at the house?

A. He did.

Q. Did he ever receive more than one person at a time?

A. I believe he did.

Q. By what name did they enquire for him?

A. By the name of *Hewitt*, sir.

Q. Pray

Q. Pray, sir, at the time he was arrested, was any label on the door of the house expressive of the inhabitants who lived in it?

A. There was.

Q. Who drew it?

A. It was I.

Q. Pray, sir, was Mr. Hewitt's name mentioned in that label?

A. No, sir.

Q. Was that lodger who passed by the name of Hewitt mentioned by any other name, or was he wholly omitted?

A. He was omitted.

Q. What induced you to omit his name upon that label?

A. He did not wish it to be put on.

Q. Did you collect in your conversations with him, what his reason was for having it omitted?

A. Yes, sir.

Q. Will you mention it if you please, sir?

A. He was afraid that Government would take him up.

Q. Pray, Mr. Palmer, did he state what his cause of apprehension was; did he speak of the transaction of the 23d July?

A. He did.

Q. Will you mention the amount of those conversations?

A. I cannot unless you ask me.

Q. I do not wish to ask you particulars, because it might have the appearance of suggesting them to you. I would rather you would mention them yourself—Did he say where he passed that evening?

A. He said he passed part of it in *Thomas-street*.

Q. Had he any conversation with you respecting the dress he wore?

A. He had.

Q. Mention it?

A. He said he had the pantaloons and boots and waistcoat that I spoke of before.

Q. Did he mention a coat?

A. He did.

Q. What coat?

A. He said it was a very handsome uniform.

[Q. (By

Q. (*By the Jury.* Did he say it was a military dress?

A. I do not recollect.

Q. Is not an uniform a military dress?

A. Yes.

Q. Did he say any thing more about it; what the colour was?

A. I do not recollect he mentioned the colour, but he said it was very handsome.

Q. Had you any conversation with him about any loss he sustained that night?

A. No, sir.

Q. Had you any conversation respecting a magazine?

A. Yes, he said something about that.

Q. Mention what he said?

A. He mentioned there was a parcel of powder lost.

Q. (*By the Jury.* Did he say where it was lost?

A. At a depot.

Q. Where?

A. He did not say where.)

Q. Had you any conversation respecting a proclamation?

A. Yes, he said there was such a thing.

Q. Did he mention to you any particular mode by which he could leave the house in case any person came to arrest him?

A. He did.

Q. What was it?

A. That if any person came to arrest him he would go through the parlour window into the back-house and through the fields.

Q. Pray, sir, during the month or three weeks, that he was latterly in the house, was he in the habit of writing?

A. He might have wrote, but I did not see any of his writing.

Q. Look at that paper, did you ever see it before? (*showing him the paper found upon the chair.*)

A. I did.

Q. Where?

A. With doctor Trevor.

Q. Did you ever see it in your mother's house?

Q. No.

Q. Whole

Q. Whose hand-writing is it ?

A. I cannot say.

Q. By virtue of your oath is it the writing of yourself, or your mother, or any of the family ?

A. By virtue of my oath it is not.

Q. (*By the Jury.* Are you acquainted with the hand writing of the person of the name of *Hewitt* ?

A. No, sir.)

Q. In what room did he lodge ?

A. In the back parlour.

Q. Were you at the house the evening he was arrested ?

A. I was.

Q. Did you see him under arrest ?

A. No, Sir.

Q. Was there any other lodger there ?

A. No, not to my knowledge.

Q. Do you know he was arrested by Major *Sirr* ?

A. I do ; the Major came into my room ; I was in bed, unwell.

Q. Was there any other person arrested in your mother's house this summer ?

A. No.

Q. Was the prisoner, that person who was arrested ?

A. He was, Sir.

Not cross-examined.

Extracts from the Proclamation found by Serjeant *Rice* were read :—It is stated at large in *Kearney's Trial*, *Vide* No. I. page 54.

Mr. MAC NALLY suggested a wish on the part of the prisoner, to have a passage read from this Proclamation.

Mr ATTORNEY GENERAL said it might be read, when the prisoner went into his defence.

Mr. BURROWES. It will be better to read it now, particularly as the prisoner desires it.

It was accordingly directed to be read—and No. 6, of the Decretal part was read, as follows :—

“ 6. The Generals are to assemble Court-martials,
“ who are to be sworn to administer Justice ; who are
“ not

“ not to condemn without sufficient evidence, and before,
 “ whom all military offenders are to be instantly sent,
 “ for trial.

Mr. *Emmet* said that was not the part he desired.—And the printed copy of the Proclamation was handed to him and he pointed out this passage, which was read by the Clerk of the Crown:—

“ 7. No man is to suffer death by their sentence, except for mutiny, the sentences of such others as are judged worthy of death, shall not be put in execution until the Provisional Government declares its will; nor are Court martials on any pretext to sentence, nor is any officer to suffer the punishment of flogging, or any species of torture to be inflicted.”

Mr. *BURROWS*. This proclamation has appeared in several publications, from which Mr. *Emmet* might learn its contents.

The short Proclamation, addressed to the Citizens of Dublin, was then read.

“ CITIZENS OF DUBLIN,—

“ A BAND of PATRIOTS, mindful of their oath and faithful to their engagement as *United Irishmen*, have determined to give freedom to their country, and a period to the long career of English oppression.

“ In this endeavour, they are now successfully engaged, and their efforts are seconded by complete and universal co-operation from the country; every part of which, from the extremity of the North, to that of the South, pours forth its warriors in support of our hallowed cause.

“ CITIZENS OF DUBLIN, we require your aid; necessary secrecy has prevented to many of you, notice of our plan; but the erection of our national standard, the secret, though long degraded *Green*, will be found a sufficient call to arms, and rally round it every man in whose breast exists a spark of patriotism, or sense of duty; avail yourselves of your local advantages; in a city each street becomes a defile, and each house a battery;—impede the march of your oppressors, charge them with the arms of the brave, the pike, and from your windows and roofs, hurl stones, bricks, bottles, and all other

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“ convenient

" convenient implements on the heads of the satellites of
 " your tyrant, the mercenary, the sanguinary soldiery of
 " *England*.

" ORANGEMEN! add not to the catalogue of your follies
 " and crimes; already have you been daped to the ruin of
 " your country, in the legislative union with its tyrant;—
 " attempt not an opposition, which will carry with it
 " your inevitable destruction; return from the paths of
 " delusion; return to the arms of your countrymen, who
 " will receive and hail your repentance.

" Countrymen of all descriptions, let us act with union
 " and concert, all sects, Catholic, Protestant, Presbyterian
 " are equally and indiscriminately embraced in the bene-
 " volence of our object; repress, prevent, and discourage
 " excesses, pillage, and intoxication; let each man do
 " his duty, and remember, that during public agitation,
 " inaction becomes a crime: Be no other competition
 " known than that of doing good; remember against whom
 " you fight, your oppressors for six hundred years, remem-
 " ber their massacres, their tortures, remember your mur-
 " dered friends—your burned houses—your violated fe-
 " males;—keep in mind your country, to whom we are
 " now giving her high rank among nations, and in the
 " honest fervor of feeling, let us all exclaim, that as in the
 " hour of her trial we serve this country, so may God
 " serve us in that which will be last of all."

Major HENRY CHARLES SIRR,

Examined by the ATTORNEY GENERAL.

Q. Do you recollect having arrested any person at
Harold's-cross?

A. I do.

Q. Without disclosing the information which you re-
 ceived, state shortly what passed?

A. I went in the evening of the 25th to the house of
 one *Palmer*. I had heard there was a stranger in the
 back parlour. I rode, accompanied by a man on foot: I
 desired the man to knock at the door—he did, and it was
 opened by a girl. I alighted, ran in directly to the back
 parlour—I saw the prisoner sitting at dinner; the woman
 of the house was there, and the girl who opened the door
 was the daughter of the woman of the house. I desired
 them to withdraw. I asked the prisoner his name; he told

me

me his name was *Cunningham*. I gave him in charge to the man who accompanied me, and I went into the next room to ask the woman and her daughter about him; they told me his name was *Hewitt*: I went back to him and asked him how long he lodged there? he said he came that morning. He had attempted to escape before I returned, for he was bloody, and the man said he knocked him down with a pistol. I then went to Mrs. *Palmer*, who said he had lodged there for a month; I then judged he was some person of importance. When I first went in, there was a paper upon a chair, which I put in my pocket; I then went to the canal bridge for a guard, having desired them to be in readiness as I passed by: I planted a sentry over him, and desired the non-commissioned officer to surround the house with sentries while I searched it; I then examined Mrs. *Palmer*, and took down her account of the prisoner; during which time I heard a noise, as if an escape was attempted: I instantly ran to the back part of the house, as the most likely part for him to get out at; I saw him going off, and ordered a sentinel to fire, and then pursued myself, regardless of the order; the sentry snapped, but his musquet did not go off; I overtook the prisoner, and he said "I surrender." I searched him, and found some papers upon him.

Q. Did he say any thing with regard to the wound he got?

A. I expressed concern at being obliged to treat him so roughly; he said, "All was fair in war."

Q. Look at this paper?

A. I found this in the room of Mr. *Cunningham*,

Q. You mean the prisoner?

A. I do.

Q. Was there any other person there?

No other: the woman and her daughter had retired,

Q. You found other papers in his possession?

A. I did.

Q. When he got to the Castle, did he admit he bore any other name?

A. He did; he admitted he was Mr. *Emmet*.

Here extracts copied from these papers were offered to be read, having been previously shewn to the counsel for the prisoner, who consented to the reading of them; but the court would not permit it.

Lord

LORD NORBURY. The gentlemen are persuaded, that this is intended with kindness towards the prisoner; but the court has a duty to discharge, and nothing can be read but what is legally proved: the papers themselves, or such parts as are called for may be read; but these copies cannot be received.

MAJOR SIRR.

Cross-Examined by Mr. MAC NALLY.

Q. Was the paper upon the ground?

A. No—it was upon a chair; the first near the door, as turned upon the left.

LORD NORBURY. I take the evidence to stand thus:—The witness went to the house, and after examination of the woman, who stated that the prisoner lodged there, and the admission of the prisoner himself, that he came there that morning, and the evidence of the son proving that the prisoner lodged in that room, in which this paper is found upon a chair; and not being in the hand-writing of any of the family, I think all these circumstances sufficient to let this paper go to the jury; and that it will be evidence against the prisoner, if they believe it to have been in his possession; and this is warranted by Lord Preston's case.

MR. MAC NALLY, We do not object to the admissibility of the evidence.

LORD NORBURY. But we are counsel for the prisoner, and are not to admit any evidence against him, which is not strictly legal; if any question can arise, it is our duty to give him the benefit of it, and we have been suggesting this matter to each other: we think this paper admissible.

The paper found on the chair was then read:

“ It may appear strange, that a person avowing himself
 “ to be an enemy of the present Government, and engaged
 “ in a conspiracy for its overthrow, should presume to sug-
 “ gest an opinion to that Government on any part of its
 “ conduct, or could hope that advice coming from such au-
 “ thority, might be received with attention. The writer
 “ of this, however, does not mean to offer an opinion on
 “ any point, on which he must of necessity feel differently
 “ from any of those whom he addresses, and on which
 “ therefore

therefore his conduct might be doubted. His intention is to confine himself entirely to those points on which, however widely he may differ from them in others, he has no hesitation in declaring, that as a man he feels the same interest with the merciful part, and as an *Irishman* with at least the *English* part of the present administration, and at the same time to communicate to them in the most precise terms that line of conduct which he may hereafter be compelled to adopt, and which, however painful it must under any circumstances be, would become doubly so, if he was not conscious of having tried to avoid it by the most distinct notification. On the two first of these points, it is not the intention of the undersigned, for the reason he has already mentioned, to do more than state, what Government itself must acknowledge—that of the present conspiracy it knows (comparatively speaking)—nothing. That instead of creating terror in its enemies, or confidence in its friends, it will only serve by the scantiness of its information, to furnish additional grounds of invective to those who are but too ready to censure it for a want of intelligence, which no sagacity could have enabled it to obtain. That if it is not able to terrify by a display of its discoveries, it cannot hope to crush by the weight of its punishments. Is it only now we are to learn that entering into conspiracy exposes us to be hanged? Are the scattered instances which will now be brought forward necessary to exemplify the statute? If the numerous and striking examples which have already preceded were insufficient. If Government can neither by the novelty of punishment, nor the multitude of its victims, impress us with terror, can it hope to injure the body of a conspiracy so impenetrably woven as the present, by cutting off a few threads from the end of it.

“That with respect to the second point, no system however it may change the nature, can affect the period of the contest that is to take place; as to which the exertions of United Irishmen will be guided only by their own opinion of the eligibility of the moment for effecting the emancipation of their country.

“That administration——”

Extracts were then read from the paper found upon the person of the prisoner exactly as stated by Mr. ATTORNEY GENERAL. *Vide page 27.*

LORD NORBURY. If the Prisoner wishes to have any other part of these papers read, he may.

MR. BORROWES. My Lord, the Prisoner is aware of that, and throughout the trial will act under that knowledge.

The title of a small manuscript book was read, "Plan of the Elements of War."

And next, the paper which was also found in the depot, and which was stated by Mr. ATTORNEY GENERAL, beginning—"I have but little time to look, &c." *Vide page 18.*

Cafe closed on the part of the crown.

MR. MAC NALLY. My Lord, Mr. *Emmet* says, he does not intend to call any witness, or to take up the time of the court by his counsel stating any case, or making observations upon the evidence; and therefore, I presume, the trial is now closed on both sides.

MR. PLUNKET. It is with extreme reluctance, that under such circumstances, and in a case like this, I do not feel myself at liberty to follow the example which has been set me by the counsel for the Prisoner.

MR. MAC NALLY. I beg pardon; I am then to call on the court to decide a matter of practice. No doubt, the crown is entitled to the last word—that is a reply: but if I understand any thing of the arrangement of criminal trials, it is this; the counsel for the prosecution states the case; after the evidence given in support of it, the Prisoner is called upon to state his case; and if he does, the counsel for the prosecution has a right to reply; but I conceive that the word *reply*, according to its true meaning, is this;—observing upon that which has been urged in answer to the charge; but if there has been no answer, there can be no reply. I believe the case is new; at least since the proceedings in treason were regulated by statute, there is no instance, where there has not been a defence made by the Prisoner's counsel, and an answer given to the evidence against him: therefore, I say, it is a new case. However we do not intend to press the objection further, unless my learned friend, with whom I have the honour to act, should think proper to add any thing in respect or it.

Lord

LORD NORBURY. Were it a matter of any doubt, it would be our duty to have it spoken to; but as there can be no doubt, that the counsel for the crown have a right to speak to a great body of evidence, and that the counsel for the Prisoner cannot by their silence preclude the crown from that right—we cannot prevent the reply; if we did, we would introduce a novel practice, which never prevailed in any of the state trials; into many of which I have looked for some time past.

MR. ATTORNEY GENERAL. My Lord, we feel that stating a case and observing upon evidence are different duties. I have had the burthen upon me of stating the case for the crown. The Prisoner declining to go into any case, wears the impression, that the case on the part of the crown does not require any answer: that is the most charitable way of considering his conduct, and therefore it is at my particular desire that Mr. PLUNKET rises to address the court and the jury upon this occasion.

MR. PLUNKET. *Ed. Clarendon*

My Lords, and Gentlemen of the Jury,

You need not entertain any apprehension, that at this hour of the day, I am disposed to take up a great deal of your time, by observing upon the evidence which has been given. In truth, if this were an ordinary case, and if the object of this prosecution did not include some more momentous interests, than the mere question of the guilt or innocence of the unfortunate gentleman, who stands a prisoner at the bar, I should have followed the example of his counsel, and should have declined making any observation upon the evidence. But, gentlemen, I do feel this to be a case of infinite importance indeed.—It is a case important, like all others of this kind, by involving the life of a fellow-subject; but it is doubly—and ten-fold important, because from the evidence which has been given in the progress of it, the system of this conspiracy against the laws and constitution of the country has been developed in all its branches; and, in observing upon the conduct of the prisoner at the bar, and bringing home the evidence of his guilt, I am bringing home guilt to a person, who, I say, is the centre, the life-blood and soul of this atrocious conspiracy.

Gentlemen,

Gentlemen, with respect to the evidence which has been offered upon the part of the Crown, to substantiate the guilt of the prisoner, I shall be very short indeed in recapitulating and observing upon it—I shall have very little more to do than to follow the statement which was made by my learned and eloquent friend, who stated the case on the part of the Crown; because it appears to me, that the outline which was given by him, has been with an exactness and precision seldom to be met with, followed up by the proof. Gentlemen, what is the sum and substance of that evidence?—I shall not detain you by detailing the particulars of it.—You see the prisoner at the bar returning from foreign countries, some time before hostilities were on the point of breaking out between these countries and *France*.—At first avowing himself—not disguising or concealing himself—he was then under no necessity of doing so; but when hostilities commenced, and when it was not improbable, that foreign invasion might co-operate with domestic treason, you see him throwing off the name by which he was previously known, and disguising himself under new appellations and characters.—You see him in the month of *March* or *April* going to an obscure lodging at *Harald's-cross*, assuming the name of *Hewitt*, and concealing himself there—for what purpose? Has he called upon any witness to explain it to you—if he were upon any private enterprize—if for fair and honourable views—or any other purpose than that which is imputed to him by the indictment? Has he called a single witness to explain it? No; but after remaining six weeks or two months in this concealment, when matters began to ripen a little more, when the house was hired in *Thomas-street*, which became the depot and magazine of military preparation, he then thinks it necessary to assume another character and another place of abode, accommodated to a more enlarged sphere of action—he abandons his lodging—he pays a fine of 6*l* guineas for a house in *Butterfield-lane*, again disguised by another assumed name, that of *Ellis*. Has he called any person to account for this; or to excuse by argument, or even by assertion, this conduct? Why, for any honest purpose, he should take this place for his habitation under a feigned name?

But you find his plans of treason becoming more mature.—He is there associated with two persons, one of the
name

name of *Dowdall*. We have not explained in evidence, what his situation is, or what he had been—the other is *Quigley*, he has been ascertained by the evidence to have been a person originally following the occupation of a bricklayer; but he thought proper to desert the humble walk in which he was originally placed, and to become a framer of constitutions and a subverter of empires.

With these associates he remains at *Butterfield-lane*, occasionally leaving it and returning again; whether he was superintending the works which were going forward, or whatever other employment engaged him, you will determine. Be it what it may; if it were not for the purpose of treason and rebellion, he has not thought proper by evidence to explain it. So matters continued until some short time before the fatal night of the 23d of *July*. Matters became somewhat hastened by an event which took place about a week before the breaking out of the insurrection: a house in *Patrick-street*, in which a quantity of powder had been collected for the purpose of the rebellion exploded. An alarm was spread by this accident; the conspirators found, that if they delayed their schemes and waited for foreign co-operation, they would be detected and defeated; and therefore it became necessary to hasten to immediate action. What is the consequence? From that time the Prisoner is not seen in his old habitation; he moves into town, and becomes an inmate and constant inhabitant of this *depot*. These facts, which I am stating, are not collected by inference from his disguise, his concealment or the assumption of a feigned name, or the other concomitant circumstances; but are proved by the positive testimony of three witnesses; all of whom positively swear to the identity of his person: *Fleming*, *Colgan* and *Farrell*, every one of whom swears he saw the Prisoner, talking exactly with each other, as to his person, the dress he wore, the functions he exercised; and every one of whom had a full opportunity of knowing him. You saw him at *Butterfield-lane*, under the assumed name of *Ellis*—you see him carrying the same name into the *depot*, not wishing to avow his own, until the achievement of the enterprize would crown it with some additional *eclat*.

The first witness, *Fleming*, appears in the character of a person who was privy to the conspiracy—he was acquainted with the *depot* from the moment it was first taken—he had

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access

access to it and co-operated in the design—he was taken upon suspicion and under these circumstances, he makes the disclosure. If the case of the prosecution rested upon the evidence of this man alone, though an accomplice in the crime, it would be sufficient evidence to go to you for your consideration, upon which you would either acquit the Prisoner or find him guilty.—In general, from the nature of the crime of treason—from the secrecy with which it is hatched and conducted, it frequently happens that no other evidence can be resorted to, but that of accomplices; and therefore, notwithstanding the crimes of such witnesses, their evidence is admissible to a jury. But, doubtless, every honest and considerate jury, whether in a case of life or not, will scrupulously weigh such evidence. If it be consistent with itself, disclosing a fair and candid account, and is not impeached by contradictory testimony, it is sufficient to sustain a verdict of guilt.

But, gentlemen, I take up your time unnecessarily, in dwelling upon this topic, which I introduced rather in justification of the principles which regulate such evidence, than as attaching any peculiar weight to it in the present instance.—Because if you blot it altogether from your minds, you have then the testimony of two other persons not tainted with the conspiracy;—one of them brought in while in a state of intoxication, and the other taken by surprize when he was watching at the door, in every respect corroborating the testimony of *Fleming*, and substantiating the guilt of the prisoner.—You heard the kind of implements which were prepared,—their account of the command assumed by the Prisoner,—living an entire week in the depot, animating his workmen, and hastening them to the conclusion of their business.—When the hour of action arrived, you see him dressed in military array, putting himself at the head of the troops who had been shut up with him in this asylum, and advancing with his party, armed for the capture of the Castle, and the destruction of his fellow-citizens!

Gentlemen of the jury, what was the part which the Prisoner took in that night of horror, I will not attempt to insinuate to you.—I hope and trust in God, for the sake of himself—his fame—his eternal welfare, that he was incapable of being a party to the barbarities which were committed.—I do not mean to insinuate that he was—But that he headed this troop, and was present while

while some shots were fired, has been proved by uncontroverted testimony. — At what time he quitted them, — whether from prudence, despair, or disgust he retired from their bands; is not proved by evidence upon the table. But from the moment of the discomfiture of his project, we find him again concealed — We trace him with the badges of rebellion glittering upon his person, attended by the two other *Confederates*, *Quigley*, the bricklayer, and *Dowdall*, the clerk, — whether for concealment, or to stimulate the wretched peasantry to other acts of insurrection, you will determine, — we first trace him to *Doyle's*, and then to *Bignall's*; — one identifies him, — the other, from her fears, incapable of doing so. — But the same party, in the same uniforms, go to her house, until the apprehension of detection drove them from her. — When he could no longer find shelter in the mountains, nor stir up the inhabitants of them, he again retires to his former obscure lodging, — the name of *Ellis* is abandoned, the regimental coat is abandoned, and again he assumes the name of *Hewitt*. — What is his conduct, in this concealment? — he betrays his apprehensions of being taken up by Government — for what? — Has any explanation been given to shew what it could be, unless for rebellion? — There he plans a mode of escape, refusing to put his name upon the door. — You find him taken a reluctant prisoner, twice attempting to escape, and only brought within the reach of the law by force and violence. — What do you find then? Has he been affecting to disguise his object — or that his plan was less dignified than his motive — that of *Treason*? — No such thing: — He tells young *Palmer* that he was in *Thomas-street* that night; — he confesses the treason, — he boasts of his uniform, part of which was upon his person when he was taken. — He acknowledges all this to the young man in the house — a witness, permit me to remark, not carried away by any excess of over-zeal to say any thing to the injury of the Prisoner, and therefore to his testimony, so far as it affects the Prisoner, you may with a safe conscience afford a reasonable degree of credit.

Under what circumstances is he taken? In the room in which he was — upon a chair near the door, is found an address to the Government of the country; and in the very first paragraph of that address, the composer of it acknowledges himself to be at the head of a conspiracy
for

for the overthrow of the Government, which he addresses, telling them, in diplomatic language, what conduct the undersigned will be compelled to adopt, if they shall presume to execute the law. He is the Leader, whose nod is a FIAT, and he warns them of the consequences!

Gentlemen of the Jury, you will decide whether the Prisoner at the bar, or Mrs. *Palmer*, was the person who denounced those terms, and this vengeance against the Government.—What is found upon him?—A letter written by a Brother Conspirator, consulting him upon the present posture of the rebellion, their future prospects, and the probability of *French* assistance, and also the probable effects of that assistance, if it should arrive,—What further is found?—At the *Depot*—and every thing found there, whether coming out of the desk which he appears to have used and resorted to, or in any other part of the place which he commanded, is evidence against him. You find a treatise upon the art of war, framed for the purpose of drilling the party who were employed to effect this rebellion; but of war they have proved that they are incapable of knowing any thing but its ferocities and its crimes. You find two proclamations, detailing systematically and precisely the views and objects of this conspiracy, and you find a manuscript copy of one of them, with interlineations, and other marks of its being an original draft.—It will be for you to consider who was the framer of it—the man who presided in the *Depot*, and regulated all the proceedings there,—or whether it was formed by *Dowdall*, the clerk—by *Quigley*, the bricklayer, or, by *Stafford*, the baker, or any of the illiterate victims of the ambition of this young man, who have been convicted in this court?—Or whether it did not flow from his pen; and was dictated by his heart.

Gentlemen, with regard to this mass of accumulated evidence, forming irrefragable proof of the guilt of the prisoner, I conceive no man capable of putting together two ideas can have a doubt.—Why then do I address you, or why should I trespass any longer upon your time and your attention?—Because, as I have already mentioned, I feel this to be a case of great public expectation—of the very last national importance; and because, when I am prosecuting a man, in whose veins the life's blood of this conspiracy flowed, I expose to the public eye the utter meanness and insufficiency of its resources—

What

What does it avow itself to be?—A plan—not to correct the excesses; or reform the abuses of the Government of the country;—not to remove any specks or imperfections which might have grown upon the surface of the constitution, or to restrain the overgrown power of the Crown—or to restore any privilege of Parliament; or to throw any new security around the liberty of the subject—No—but it plainly and boldly avows itself to be a plan to separate *Great Britain* from *Ireland*, uproot the Monarchy, and establish “*A Free and Independent Republic in Ireland*,” in its place!—To sever the connection between *Great Britain* and *Ireland*!—Gentlemen, I should feel it a waste of words and of public time, were I to address you or any person within the limits of my voice; were I to talk of the frantic desperation of the plan of any man, who speculates upon the dissolution of that empire, whose glory and whose happiness depends upon its indissoluble connection.—But were it practicable to sever that connection—to untie the links which bind us to the *British Constitution*, and to turn us adrift upon the turbulent ocean of revolution, who could answer for the existence of this country, as an independent country, for a year?—God and Nature have made the two countries essential to each other,—let them cling to each other to the end of time; and their united affection and loyalty will be proof against the machinations of the world.

But how was this to be done?—By establishing “*a Free and Independent Republic*!” High sounding name!—I would ask, whether the man who used them, understood what he meant?—I will not ask what may be its benefits, for I know its evils. There is no magic in the name. We have heard of “free and independent Republics,” and have since seen the most object slavery that ever groined under iron despotism growing out of them.

Formerly, Gentlemen of the Jury, we have seen revolutions effected by some great call of the people, ripe for change and unfitted by their habits for ancient forms; but here from the obscurity of concealment and by the voice of that pigmy authority, self-created and fearing to shew itself, but in arms under cover of the night, we are called upon to surrender a constitution, which has lasted for a period of one thousand years. Had any body of the people come forward

forward, stating any grievance or announcing their demand for a change?—No, but while the country is peaceful, enjoying the blessings of the Constitution, growing rich and happy under it, a few, desperate, obscure, contemptible adventurers in the trade of revolution form a scheme against the constituted authorities of the land; and by force and violence—to overthrow an ancient and venerable constitution and to plunge a whole people into the horrors of civil war!

If the wisest head that ever lived had framed the wisest system of laws which human ingenuity could devise—if he were satisfied that the system were exactly fitted to the disposition of the people for whom he intended it; and that a great proportion of that people were anxious for its adoption, yet give me leave to say, that under all these circumstances of fitness and disposition, a well judging mind and a humane heart would pause a while and stop upon the brink of his purpose, before he would hazard the peace of the country, by resorting to force for the establishment of his system: but here in the phrenzy of distempered ambition, the author of the Proclamation conceives the project of "*a Free and Independent Republic*,"—he at once flings it down, and he tells every man in the community, rich or poor, loyal or disloyal, he must adopt it at the peril of being considered an enemy to the country; and of suffering the pains and penalties attendant thereupon.

And how was this revolution to be effected? The Proclamation conveys an insinuation, that it was to be effected by their own force, entirely independent of foreign assistance.—Why?—Because it was well known, that there remained in this country few so depraved, so lost to the welfare of their native land, that would not shudder at forming an alliance with *France*; and therefore the people of *Ireland* are told, "The effort is to be entirely your own, independent of foreign aid."—But how does this tally with the time when the scheme was first hatched; the very period of the commencement of the war with *France*? How does it tally with the fact of consulting in the depot, about co-operating with the *French*, which has been proved in evidence? But, Gentlemen, out of the Proclamation I convict him of duplicity. He tells the Government of the country not to resist their mandate; or think that they can effectually suppress rebellion, by putting down the present attempt, but
that

that " they will have to crush a greater exertion, rendered still greater by foreign assistance," so that upon the face of the Proclamation, they avowed in its naked deformity, the abominable plan of an alliance with the usurper of the *French* throne, to overturn the ancient constitution of the land, and to substitute a new Republic in its place.

Gentlemen, so far I have taken up your time with observing upon the nature and extent of the conspiracy; its objects and the means by which they proposed to effectuate them. Let me now call your attention to the pretexts by which they seek to support them. They have not stated what particular grievance or oppression is complained of—but they have travelled back into the history of six centuries—they have raked up the ashes of former cruelties and rebellions, and upon the memory of them, they call upon the good people of this country to embark into similar troubles—but they forget to tell the people, that until the infection of new fangled *French* principles was introduced, this country was for 100 years free from the slightest symptom of rebellion, advancing in improvement of every kind beyond any example, while the former animosities of the country were melting down into a general system of philanthropy and cordial attachment to each other.—They forget to tell the people whom they address, that they have been enjoying the benefit of equal laws, by which the property, the person, and constitutional rights and privileges of every man are abundantly protected; they have not pointed out a single instance of oppression. Give me leave to ask any man who may have suffered himself to be deluded by those enemies of the law, what is there to prevent the exercise of honest industry and enjoying the produce of it? Does any man presume to invade him in the enjoyment of his property? If he does, is not the punishment of the law brought down upon him? What does he want? What is it that any rational friend to freedom could expect, that the people of this country are not fully and amply in the possession of?—And therefore when those idle stories are told of 600 years oppression and of rebellions prevailing when this country was in a state of ignorance and barbarism, and which have long since passed away, they are utterly destitute of a fact to rest upon; they are a fraud upon feeling and are the pretext of the factious and ambitious, working upon credulity and ignorance.

Let

Let me allude to another topic:—they call for revenge on account of the removal of the Parliament. Those men, who in 1798, endeavoured to destroy the Parliament, now call upon the loyal men, who opposed its transfer, to join them in rebellion; an appeal vain and fruitless. Look around and see with what zeal and loyalty they rallied round the Throne and Constitution of the country.—Whatever might have been the difference of opinion heretofore among Irishmen upon some points, when armed rebels appear against the laws and public peace—every minor difference is annihilated in the paramount claim of duty to our King and Country.

So much, Gentlemen, for the nature of this conspiracy and the pretexts upon which it rests. Suffer me, for a moment to call your attention to one or two of the edicts published by the conspirators. They have denounced, that if a single *Irish* Soldier, or in more faithful description, *Irish Rebel*, shall lose his life after the battle is over, quarter is neither to be given or taken.—Observe the equality of the reasoning of these promulgers of liberty and equality. The distinction is this:—*English* Troops are permitted to arm in defence of the Government and the Constitution of the Country, and to maintain their allegiance; but if an *Irish* Soldier, Yeoman, or other Loyal person, who shall not within the space of fourteen days from the date and issuing forth of their sovereign Proclamation, appear in arms with them; if he presumes to obey the dictates of his conscience, his duty and his interest—if he has the hardihood to be loyal to his Sovereign and his country, he is proclaimed a traitor, his life is forfeited and his property is confiscated.—A sacred *palladium* is thrown over the rebel cause, while in the same breath, undistinguishing vengeance is denounced against those, who stand up in defence of the existing and ancient laws of the country.—For God's sake, to whom are we called upon to deliver up, with only fourteen days to consider of it—all the advantages we enjoy? Who are they who claim the obedience? The prisoner is the principal: I do not wish to say any thing harsh of him—a young man of considerable talents if used with precaution; and of respectable rank in society, if content to conform himself to its laws. But when he assumes the manner and the tone of a legislator, and calls upon all ranks of people, the instant *The*
Provisional

Provisional Government proclaim in the Abstract, a new Government, without specifying what the new laws are to be, or how the people are to be conducted and managed—but that the moment it is announced, the whole constituted authority is to yield to him. It becomes an extravagance bordering upon phrenzy; this is going beyond the example of all former times. If a rightful sovereign were restored he would forbear to inflict punishment upon those who submitted to the King *de facto*; but here there is no such forbearance. We who have lived under a King, not only *de facto*, but *de jure* in possession of the throne, are called upon to submit ourselves to the Prisoner; to Dowdall, the vagrant politician—to the bricklayer, to the baker, the old clothes' man, the hod-man and the hostler. These are the persons to whom this Proclamation in its majesty and dignity calls upon a great people to yield obedience, and a powerful government to give “a prompt, manly and sagacious acquiescence to their just and unalterable determination!”—“We call upon the *British Government* not to be so mad as to oppose us.” Why, Gentlemen, this goes beyond all serious discussion, and I mention it, merely to shew the contemptible nature of this conspiracy, which hoped to have set the entire country in a flame; when it was joined by *nineteenth Counties* from North to South, catching the electrical spark of revolution, they engaged in the conspiracy: The General, with his Lieut. General, putting himself at the head of the forces, collected not merely from the city, but from the neighbouring Counties, and when all the strength is collected, voluntary and forced, they are stopped in their progress, in the first glow of their valour, by the honest voice of a single peace-officer, at which the Provincial forces disconcerted and alarmed, but ran like hares, when one hundred soldiers appeared against them.

Gentlemen, why do I state these facts?—Is it to shew, that the Government need not be vigilant, or that our gallant countrymen should relax in their exertions?—By no means; but to induce the miserable victims who have been misled by those phantoms of revolutionary delusion, to shew them, that they ought to lose no time in abandoning a cause which cannot protect itself, and exposes them to destruction and to adhere to the peaceful and secure habits of honest industry. If they knew it, they have no

reason to repine at their lot; Providence is not so unkind to them in casting them in that humble walk in which they are placed. Let them obey the law and cultivate religion, and worship their God in their own way. They may prosecute their labour in peace and tranquillity—they need not envy the higher ranks of life, but may look with pity upon that vicious despot who watches with the sleepless eye of disquieting ambition and sits a wretched usurper trembling upon the throne of the *Bourbons*. But I do not wish to awaken any remorse, except such as may be salutary to himself and the country, in the mind of the Prisoner. But when he reflects, that he has stooped from the honorable situation in which his birth, talents and his education placed him in, to debauch the minds of the lower orders of ignorant men, with the phantoms of liberty and equality, he must feel, that it was an unworthy use of his talents—he should feel remorse for the consequences which ensued, grievous to humanity and virtue, and should endeavour to make all the atonement he can, by employing the little time which remains for him, in endeavouring to undeceive them.

Liberty and equality are dangerous names to make use of—If properly understood, they mean enjoyment of personal freedom under the equal protection of the laws—and a genuine love of liberty inculcates an affection for our friends our King and Country—a reverence for their lives, an anxiety for their safety—a feeling which advances from private to public life, until it expands and swells into the more dignified name of philanthropy and philosophy.—But in the cant of modern philosophy, these affections which form the ennobling distinctions of man's nature are all thrown aside;—all the vices of his character are made the instrument of *moral good*—an abstract quantity of vice may produce a certain quantity of moral good.—To a man whose principles are thus poisoned and his judgment perverted, the most flagitious crimes lose their names—robbery and murder become moral good—He is taught not to startle at putting to death a fellow creature, if it be represented as a mode of contributing to the good of all—In pursuit of those phantoms and chimeras of the brain, they abolish feelings and instincts, which God and nature have planted in our hearts for the good of human kind.—Thus by the printed plan for the establishment of liberty and a free republic,

public, murder is prohibited and proscribed; and yet you heard how this caution against excesses was followed up by the recital of every grievance that ever existed, and which could excite every bad feeling of the heart, the most vengeful cruelty and insatiate thirst of blood.

Gentlemen, I am anxious to suppose that the mind of the Prisoner recoiled at the scenes of murder which he witnessed—and I mention one circumstance with satisfaction—it appears he saved the life of *Farrell*, and may the recollection of that one good action cheer him in his last moments.—But though he may not have planned individual murders, that is no excuse to justify his embarking in treason—which must be followed by every species of crimes.—It is supported by the rabble of the country—while the rank, the wealth and the power of the country is opposed to it.—Let loose the rabble of the country from the salutary restraints of the law, and who can take upon him to limit their barbarities.—Who can say, he will disturb the peace of the world and rule it when wildest?—Let loose the winds of heaven and what power less than omnipotent can control them?—So it is with the rabble—let them loose and who can restrain them? What claim then can the Prisoner have upon the compassion of a jury, because in the general destruction, which his schemes necessarily produce, he did not meditate individual murder.—In the short space of a quarter of an hour what a scene of blood and horror was exhibited.—I trust that the blood which has been shed in the streets of Dublin upon that night, and since upon the scaffold, and which may hereafter be shed, will not be visited upon the head of the Prisoner.—It is not for me to say, what are the limits of the mercy of God.—what a sincere repentance of those crimes may effect.—But I do say, that if this unfortunate young gentleman retains any of the seeds of humanity in his heart, or possesses any of those qualities which a virtuous education in a liberal seminary must have planted in his bosom, he will make an atonement to his God and his country, by employing whatever time remains to him in warning his deluded countrymen from persevering in their schemes.—Much blood has been shed, and he perhaps would have been immolated by his followers, if he had succeeded. They are a blood thirsty crew, incapable of listening to the voice of reason—and equally incapable of obtaining rational freedom, if it were wanting in this country, as they are of enjoying it.—They embroe their hands in the most sacred blood

blood of the country, and yet they call upon God, to prosper their cause, as it is just !—But as it is atrocious, wicked and abominable, I most devoutly invoke that God to confound and overwhelm it.

Lord NORBURY,

Gentlemen of the Jury,

I shall not delay you longer, than I feel my indispensable duty requires. We have all a very serious duty to perform. I shall not consume a moment of your time by recapitulating any principles of law, for no difficulty exists in the case, in that respect. If there had been an opportunity to make a defence in matter of law, there are no more able men for the purpose, than those who have been assigned as counsel to the prisoner; but they have comported themselves with a discretion and a manliness that is deserving of respect.

Gentlemen, it is necessary that you should know what the overt acts are to which the evidence is applicable. The Indictment is for *High Treason*, comprehending three several branches of the statute of *Edward the third*.—First, for compassing and imagining the death of the King.—Secondly.—For adhering to the King's enemies—and Thirdly— for compassing to levy war. The first overt act in support of these charges, is that the Prisoner did with others meet consult, conspire and agree to raise, levy and make cruel insurrection, rebellion and war against the King, and to procure great quantities of arms and ammunition for the purpose of the said rebellion, and to overturn the constitution. The second is, that he did procure great quantities of arms and ammunition, and did procure to be made 1000 pikes, with intent that divers traitors should be armed therewith, and should use the same in and for making and carrying on insurrection, rebellion and war against the King, and for committing a cruel slaughter against his subjects. The third is, that he did become one of a society of persons, associated under the name of *The Provisional Government*, for the purpose of levying war against the King, and overturning the constitution, he well knowing the purposes for which that society was formed. The fourth is, that he did compose and write a certain manifesto, purporting to be a proclamation of *The Provisional Government*,

Government, and purporting that they had determined to separate Ireland from England, and for that purpose to make war against the King and his troops, with intent that said proclamation should be spread among the people, to unite them to war against the King. The fifth is, that he did write that proclamation, describing it to be the proclamation of persons unknown associated under the name of the *Provisional Government*, with the same intent as in the former. The sixth is, that he kept and concealed the Proclamation with intent that it should be published and spread amongst the people—and the seventh is, that he did ordain, prepare, levy, and make public war against the King. The same overt acts are stated in support of the second count, and there is one in support of the third, that he did with other persons actually levy war against the King.

Gentlemen, having now disposed of that which is the legal import of the charge, I shall proceed to the evidence.

(Here his Lordship minutely stated from his notes all the evidence which had been adduced, and accompanied this detail with occasional observations.)

As has been observed on, if the witness appears to have been an accomplice in the crimes of the prisoner, he said, it has been long settled law, that an accomplice is a competent witness to be received to give evidence, otherwise many dangerous crimes would go unpunished, and undiscovered.—But the Jury are to determine under all the circumstances appearing in the case, what credit he deserves, and where he tells a natural and consistent story. In the present instance, the witness appears consistent, and is corroborated in many particulars, and he is not contradicted in any.

(After stating and observing upon the written evidence, his Lordship proceeded.)

Now, Gentlemen, I have to conclude this duty of addressing you with one or two observations—Probably you have made a clear arrangement of this case in your own minds. But it appears to me, that there are three distinct periods, into which the facts of the case may be divided.—First, that which relates to the conduct of the Prisoner before the rebellion—Second, that which relates to his conduct on the 23d of July, when the rebellion was raging, and thirdly, that which relates to his conduct afterwards—
then

Mr. EMMET.

Why the sentence of the law should not be passed upon me; I have nothing to say—why the sentence which in the public mind is usually attached to that of the law; ought to be reversed, I have much to say.—I stand here a conspirator—as one engaged in a conspiracy for the overthrow of the *British Government in Ireland*;—for the fact of which I am to suffer by the law;—for the motives of which I am to answer before God.—I am ready to do both.—Was it only the fact of treason—was it that naked fact alone with which I stood charged.—Was I to suffer no other punishment; than the death of the body, I would not obtrude on your attention, but having received the sentence, I would bow my neck in silence to the stroke.—But, my Lords, I well know, that when a man enters into conspiracy, he has not only to combat against the difficulties of fortune, but to contend with the still more insurmountable obstacles of prejudice:—and that if, in the end, fortune abandons him and delivers him over bound into the hands of the law; his character is previously loaded with calumny and misrepresentation. For what purpose, I know not, except, that the Prisoner thus weighed down both in mind and body, may be delivered over a more unresisting victim to condemnation.—It is well:—But the victim being one obtained and firmly in your power, let him now unmanacle his reputation.—Not, my Lords, that, I have much to demand from you,—it is a claim on your memory, rather than on your candour, that I am making. I do not ask you to believe implicitly what I say. I do not hope that you will let my vindication ride at anchor in your breasts;—I only ask you, to let it float upon the surface of your recollection, till it comes to some more friendly port to receive it, and give it shelter against the heavy storms, with which it is buffeted.

I am charged with being an emissary of *France*, for the purpose of inciting insurrection in the country and then delivering it over to a foreign enemy.—It is false!—I did not wish to join this country with *France*.—I did join—I did not create the rebellion—not for *France*; but for its liberty. It is true, there were communications between the *United Irishmen* and *France*;—it is true, that by that, the war was no surprize upon us. There is a new agent at *Paris*, at this moment, negotiating with the *French Govern-*

ment

went to obtain from them an aid sufficient to accomplish the separation of *Ireland* from *England*, and before any expedition fails, it is intended to have a treaty signed, as a guarantee, similar to that which *Franklin* obtained for *America*. Whether they will do that now, *England*, you may judge. But the only question with the members of The Provisional Government was: Whether *France* should come to this country, as an enemy?—Whether she should have any pretext for so doing?—Whether the people should look to *France*, as their only deliverer, or through the medium and control of the Provisional Government attain their object? It is not now, that I discovered, or that the rest of the Provisional Government of *Ireland* feel what it is, that binds states together. They well know, my Lords, that such a disposition exists only in proportion to its mutuality of interest; and wherever that mutuality does not exist, no written articles can secure the inferior state, nor supply the means of protecting its independence.

In this view, it never was the intention of the Provisional Government of *Ireland* to form a permanent alliance with *France*; well knowing, that if there is between states a permanent mutual interest, more or less, though treaties may be made, yet for the most part, it is not the treaty which binds them together, but a sense of common interest, and where that interest does not exist, treaties are soon represented as unjust—they are qualified and interpreted at pleasure, and violated under any pretext. Under these views, it never was the intention to form a permanent treaty with *France*, and in the treaty, which they did make, they had the same guarantee which *America* had, that an Independent Government should be established in the country, before the *French* should come.—God forbid! that I should see my country under the hands of a foreign power. On the contrary, it is evident from the introductory paragraph of the address of the Provisional Government of *Ireland*, that every hazard attending an independent effort was deemed preferable to the more fatal risk of introducing a *French* army into the country. For what? when it has liberty to maintain and independence to keep, may no consideration induce it to submit. If the *French* come as a foreign enemy, Oh, my Countrymen! meet them on the shore with a torch in one hand—a sword in the other—receive them with all the destruction of war—immolate them in their boats before our native soil shall be polluted

by a foreign foe. If they succeed in landing, fight them on the strand; burn every blade of grass before them, as they advance; raze every house; and if you are driven to the centre of your country; collect your provisions, your property, your wives and your daughters; form a circle around them—fight while two men are left; and when but one remains let that man set fire to the pile; and release himself and the families of his fallen countrymen from the tyranny of *France*.

Deliver my country into the hands of *France*!—Look at the Proclamation.—Where is it stated?—Is it in that part, where the People of *Ireland* are called upon to shew the world, that they are competent to take their place among nations?—that they have a right to claim acknowledgment as an *Independent* Country; by the satisfactory proof of their capability of maintaining their independence?—by wresting it from *England*, with *their own* hands? Is it in that part, where it is stated, that the system has been organized within the last eight months, *without the hope of foreign assistance*, and which the renewal of hostilities has not accelerated?—Is it in that part, which desires *England* not to create a deadly national antipathy between the two countries?—Look then to another part of the Proclamation—look at the military regulations:—is there a word introduced from the *French* nomenclature?—Are not all the terms *English*—all the appellations of the intended constituted authorities—*English*?—Why then say, the system was from *France*?—Yes, there was one argument urged; one quotation from the Proclamation relied upon, to prove, that we must have meant to resort to *France*. “You are
“to shew to us, that you have something in reserve where
“with to crush hereafter, not only a greater exertion
“on the part of the people; but a greater exertion, rendered still greater by *foreign assistance*.” From which an inference is drawn, that foreign assistance is the support of the present system. Because you are called upon to shew, that your strength is such, that you can put down the present attempt without bringing out all your force—to shew, that you have something in *reserve*, wherewith to crush hereafter. Therefore, the conclusion drawn is, because a *future* exertion *may be* rendered greater by foreign assistance, that foreign assistance is the foundation of the present exertion.

But

But it is said, we must have had it in view to deliver up the country to *France*, and this is not attempted to be proved upon any ground, but that of assertion.—It is not proved from our declarations or actions; because every circumstance attending the attempt which took place, shews, that our object was to anticipate *France*.—How could we speak of freedom to our countrymen—how assume such an exalted motive and meditate the introduction of a power, which has been the enemy of freedom wherever she appears.—See how she has behaved to other countries. How has she behaved to *Switzerland*, to *Holland*, and to *Italy*. Could we expect better conduct towards us. No! Let not then any man calumniate my memory by believing, that I could have hoped for freedom from the government of *France*, or that I would have betrayed the sacred cause of the liberty of this country, by committing it to the power of her most determined foe.

With regard to this, I have one observation to make:—It has been stated that I came from abroad:—If I had been in *Switzerland*, I would have fought against the *French*; for I believe the Swiss are hostile to the *French*.—In the dignity of freedom, I would have expired on the frontiers of that country, and they should have entered it only by passing over my lifeless corse.—But if I thought the people were favourable to the *French*,—I have seen so much what the consequences of the failure of revolutions are—the oppressions of the higher upon the lower orders of the people.—I say, if I saw them disposed to admit the *French*, I would not join them, but I would put myself between the *French* and the people, not as a victim—but to protect them from subjugation, and endeavour to gain their confidence, by sharing in their danger.

So would I have done with the people of *Ireland*, and so would I do, if I was called upon to-morrow.—Our object was to effect a separation from *England*.—

The Court here interrupted the Prisoner.

Lord NORBURY. At the moment when you are called upon to shew, why sentence of death should not be pronounced against you, according to law, you are making an avowal of dreadful treasons, and of a determined purpose to have persevered in them; which I do believe has astonished your audience. The Court is most anxious to give you

you the utmost latitude of indulgence to address them, hoping that such indulgence would not be abused by an attempt to vindicate the most criminal measures and principles, through the dangerous medium of eloquent, but perverted talents. I beseech you therefore to compose your mind, and to recollect, that the patient attention with which you have been listened to is unparalleled in the history of any other country, that did not enjoy the benignant temper of the British Law. You should make some better atonement to expiate your own crimes and to alleviate the misfortunes you have brought upon your country; with which country and with your God I entreat you to make your peace. You must be aware, that a court of justice in endeavouring to control and do away the bad effect of desperate sentiments, which have been thus promulgated, as the effusions of a disturbed and agitated mind, is but the fulfilling that duty, which it owed to the offended laws of an injured country. You, sir, had the honor to be a gentleman by birth, and your father filled a respectable situation under the government. You had an eldest brother, whom death snatched away, and who when living was one of the greatest ornaments of the bar. The laws of his country were the study of his youth; and the study of his maturer life was to cultivate and support them. He left you a proud example to follow; and if he had lived, he would have given your talents the same virtuous direction as his own, and have taught you to admire and preserve that constitution, for the destruction of which you have conspired with the most profligate and abandoned, and associated yourself with hostlers, bakers, butchers, and such persons, whom you invited to councils, when you erected your Provisional Government. When you sallied forth at midnight with such a band of assassins, and found yourself implicated in their atrocities, your heart must have lost all recollection of what you were. You had been educated at a most virtuous and enlightened seminary of learning, and amidst the ingenuous youth of your country, many of whom now surround you, with the conscious pride of having taken up arms to save their country against your attacks upon it; and amongst them, there may be a throb of indignant sorrow, which would say—
*“ Had it been an open enemy, I could have borne it; but that
 “ it should be my companion and my friend !”*

Mr.

Mr. EMMET. My Lord——

LORD NORBURY. If you have any thing to urge in point of law, you will be heard; but what you have hitherto said, confirms and justifies the verdict of the Jury.

Mr. EMMET. My Lord, I did say I had nothing to offer, why the sentence of the law should not pass upon me. But if that is all I am asked, that is not all I am to suffer, even from the voice of those who surround me.—But the judge when he pronounces the sentence of the law, does not confine himself to the mere form which is prescribed—he feels it a duty, I am sure from pure motives, to give an exhortation to the Prisoner.—The judges sometimes think it their duty to dwell upon his motives.—What I claim then is this—to free my character from a foul imputation. Though you my Lord, sit there as judge; and I stand here a culprit; yet, you are but a man;—and I am a man also. And when you, or any other judge speak against the motives of a dying man, I do conceive it to be the right of the dying man,—That it is his duty, to vindicate his character and his views from aspersions.—If I say any thing contrary to the law, your Lordship may stop me, and I will submit immediately upon being corrected.—But it is hardly possible, when I am justifying my motives, to avoid mentioning some which must be disagreeable to those I address,—All I can say, is, that they should have been passed over in silence.—If my motives are not to be justified, nothing should be said, but the pronouncing of the sentence.—If I am not permitted to vindicate my character, let no man dare to calumniate my motives.—If I am permitted to go on——

LORD NORBURY. You have learning and discrimination enough to know, that if a judge were to sit in a court of justice to hear any man proclaim treason, and to proceed to unwarrantable lengths in order to captivate or delude the unwary, or to circulate opinions or principles of the most dangerous tendency for the purposes of mischief, it would be an insult to the law, and to the justice of the country, for which those who preside would be responsible, but in every matter relevant to your own case you shall have every indulgence.

Mr. EMMET. Then I have nothing more to say, if I am not permitted to vindicate myself. Vindication rests upon abstract principle, and the views with which that principle is applied.—I did wish to state both.—I did wish

to state the views which I had, without presuming to make application of them to any body—I can only say, that my motives, and abhorrence of the spilling of blood, resulted from an ardent attachment to my country, from a sense of public duty, in which I have been brought up from the age of ten years. I had hoped that such a thing as public principle might have existed. But if I go to my grave, with this imputation cast upon me this day, that I wished for personal aggrandizement and dominion, I would go with a heavy weight upon my mind. I appeal to every man who heard it, not to believe it. I would appeal to those who cannot hear what I am not permitted to say, to follow the ATTORNEY GENERAL and discharge it altogether from their minds.—Let it remain in silence—in charitable silence—I have now done.—I have burned out my lamp of life. For the public service, I abandoned the worship of another idol I adored in my heart.—My ministry is now ended. I am now to receive my reward. I am going to my cold grave.—I have one request to make. Let there be no inscription upon my tomb.—Let no man write my epitaph.—No man can write my epitaph.—I am here ready to die.—I am not allowed to vindicate my character.—No man shall dare to vindicate my character, and when I am prevented from vindicating myself, let no man dare to calumniate me.—Let my character and my motives repose in obscurity and peace, till other times and other men can do them justice; *Then* shall my character be vindicated.—Then may my epitaph be written.

LORD NORBURY. I was in hopes that I might have been able to recal you to a more composed state of mind, suitable to the melancholy situation in which you are placed. I lament that it was vain to attempt it. A different conduct would more become a man who had endeavoured to overthrow the laws and the liberties of his country, and who had vainly and wickedly substituted the bloody proscriptions of the Provisional Government, in the room of the most temperate, mild, and impartial justice with which a free country was ever blessed.—Had you been tried under the system of your own invention, you would not have been litted to for an instant; but your code would have crushed the inventor. And such has been the well-known fate of most of the leaders of modern republicanism, where such talents and dispositions as yours have been resorted to, that the prostituted pen of

of every revolutionary raver might be put in requisition to madden the multitude, and to give sovereignty to the mob.

Mr. EMMET. I beg pardon;—I wish to mention one circumstance, which is, to state expressly, that I did not come from *France*;—I did not create the conspiracy—I found it when I arrived here;—I was solicited to join it,—I took time to consider of it, and I was told expressly, that it was no matter whether I did join it or not—it would go on. I then, finding my principles accord with the measure, did join it, and under the same circumstances would do so again.

LORD NOREURY. The history of your trial; and the circumstances relating to it; are fresh in every man's recollection. Be assured that I have the most sincere affliction in performing the painful duty which devolves upon me; and let me, with the most anxious concern, exhort you, not to depart this life with such sentiments of rooted hostility to your country as those which you have expressed. Be assured that far other sentiments will better contribute to give you comfort at your departure from this life; and to obtain forgiveness and mercy in that which is to come—as well as to give you fortitude to bear that dreadful sentence which at this awful moment I must pronounce.

His Lordship then pronounced the sentence in the usual form, and the prisoner bowed, and retired.

The Prisoner was executed the next day, in *Thomas Street*.

Counsel for the Crown.

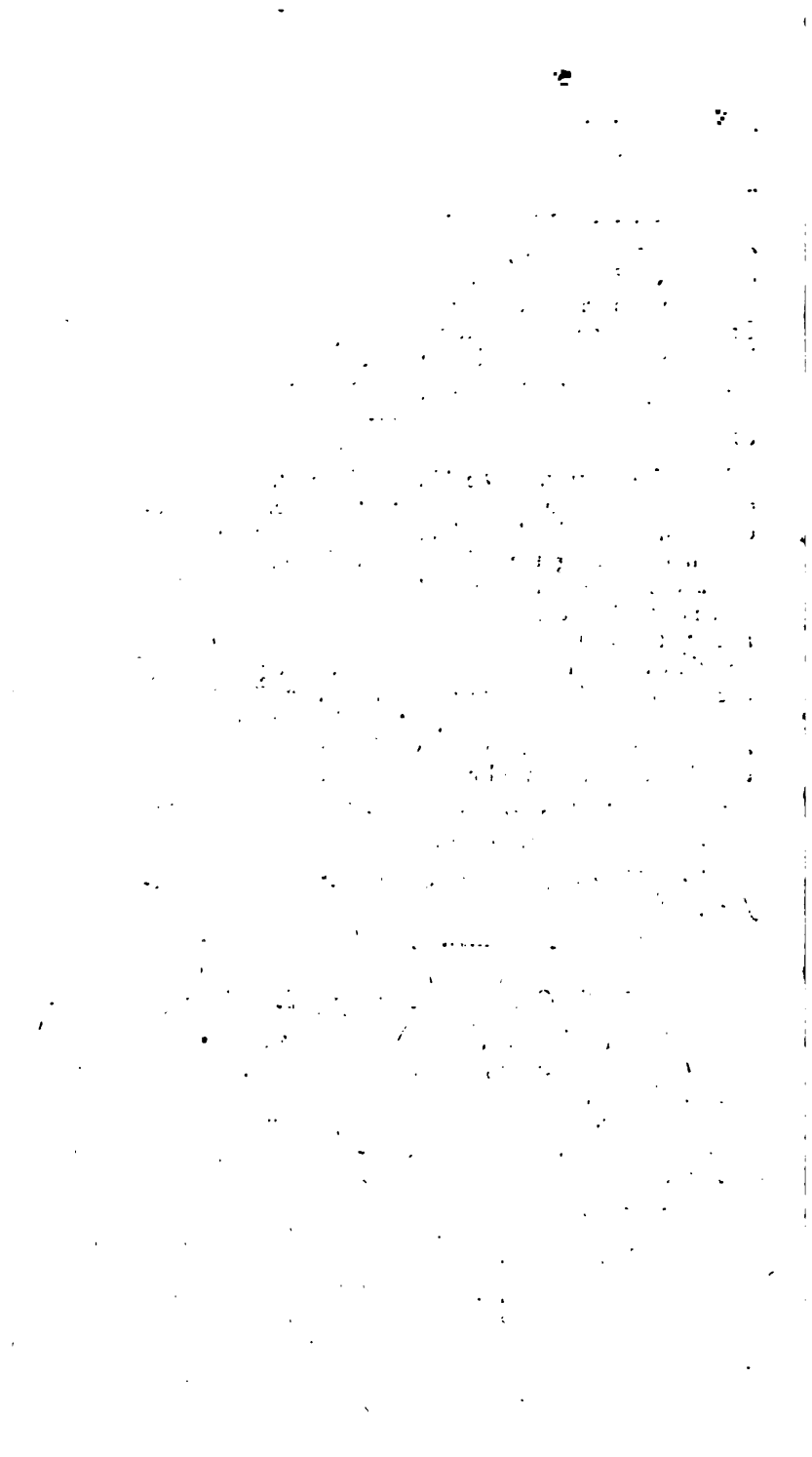
Mr. Attorney General, *of the Crown*
 Mr. Solicitor General, *of the Crown*
 Mr. Plunket;
 Mr. Mayne,
 Mr. Townsend;
 Mr. Ridgeway;
 Mr. O'Grady.

Crown Solicitors,

T. and W. Kemmis;

Counsel for the Prisoner.

Mr. Burrowes.
 Mr. Mac Nally.
 Agent,
 Mr. L. Mac Nally.



A
R E P O R T

OF THE
P R O C E E D I N G S

I N
Cases of High Treason.

SPECIAL COMMISSION.

Tuesday, 27th Sept. 1803.

Judges present :—*Lord NORBURY, Mr. Baron GEORGE,*
Mr. Baron DALY.

Henry Howley was put to the Bar. Upon a former day
he was arraigned upon the following indictment :

County of the City of } THE Jurors of our Lord the
Dublin; to wit. } King upon their oath present,
that Henry Howley, late of Croker's-
lane in the city of Dublin, carpenter, subject of our said
Lord the now King, not having the fear of God in his
heart, nor weighing the duty of his allegiance, but be-
ing moved and seduced by the instigation of the Devil,

as a false traitor against our said Lord the now King, his supreme, true, lawful and undoubted Lord, the cordial ~~love, and true, and due obedience~~, which every true and dutiful subject of our said Sovereign Lord the King, towards him our said Lord the King should bear, wholly withdrawing, and contriving and intending the peace and common tranquillity of this kingdom to disquiet, molest and disturb, and the government and constitution of this realm to change, subvert and alter, and our said Lord the King from the royal state, title, honor, power, imperial crown, and government of this his kingdom to depose, and deprive, and our said Lord the present King to death and final destruction to bring and put, he, the said *Henry Howley*, on the 24th day of *March*, in the 43d year of the reign of our said Lord the King, at *Croker's-lane* aforesaid, in the city and county of the city of *Dublin* aforesaid, with force and arms, falsely, wickedly, and traitorously did compass, imagine and intend our said Lord the King, then and there his supreme, true and lawful Lord, of and from the royal crown, title, power and government of this realm to depose, and wholly deprive, and our said Lord the King to kill, and bring and put to death, and that to fulfil, perfect, and bring to effect his most evil and wicked treason and treasonable imaginations, and compassings aforesaid, he, the said *Henry Howley*, as such false traitor as aforesaid, on the said 24th day of *March*, in the said 43d year of the reign of our said Lord the King, and on divers other days and times, as well before as after, at *Croker's-lane* aforesaid, in the city and county of the city of *Dublin* aforesaid, with force and arms, falsely, maliciously, and traitorously did meet, consult, combine, conspire, confederate, and agree to and with divers other false traitors, whose names are to the Jurors aforesaid unknown, to raise, levy, and make a public and cruel insurrection, rebellion and war, against our said Sovereign Lord the King, within this kingdom, and at another time, to wit, on the said 24th day of *March*, in the said 43d year of the reign of our said Lord the King, with force and arms, at *Croker's-lane* aforesaid, in the city and county of the city of *Dublin* aforesaid, the said *Henry Howley*, as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes aforesaid,

aforesaid, falsely, wickedly, and traitorously did procure and did cause to be procured, great quantities of arms and ammunition, guns, pistols, gunpowder and shot, and then and there falsely, maliciously, and traitorously did make and prepare, and did cause and procure to be made and prepared a great number, to wit, one thousand pikes, with intent that divers other false traitors, whose names are to the said Jurors unknown, should be armed with the said guns, swords, pistols and pikes, and being so armed should use the same, and the gunpowder, shot, and ammunition aforesaid in and for the raising, levying, making and carrying on insurrection, rebellion, and war against our said Lord the King, and in and for the committing and perpetrating a cruel slaughter, of and amongst the faithful subjects of our said Lord the King in this kingdom.

And that afterwards, to wit, on the said 24th day of *March*, in the said 43d year of the reign of our said Lord the King, with force and arms, at *Croker's-lane* aforesaid, in the city and county of the city of *Dublin* aforesaid, the said *Henry Howley*, as such false traitor as aforesaid, in farther prosecution of his treason and treasonable purposes aforesaid, falsely, wickedly, and traitorously did obtain, procure, hire, and take a lease of a certain warehouse and store, there situate, with intent, and in order that a great quantity of guns, swords, pistols, pikes, balls, gunpowder, arms and ammunition, should be there collected, and kept, and that divers other false traitors, to the Jurors unknown, should there receive the said guns, swords, pistols, pikes, balls, gunpowder, arms and ammunition, and should use the same in and for the raising, levying, making and carrying on insurrection, rebellion and war, against our said Lord the King, and in and for the committing and perpetrating a cruel slaughter of and amongst the liege subjects of our said Lord the King in this kingdom.

And that afterwards, to wit, on the said 24th day of *March*, in the said 43d year of the reign of our said Lord the King, with force and arms, at *Croker's-lane* aforesaid, in the city and county of the city of *Dublin* aforesaid, the said *Henry Howley*, as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes aforesaid, with a great multitude of persons, whose names are to the Jurors unknown, to wit, to the number of

one hundred persons and upwards, armed and arrayed in a warlike manner, to wit, with swords, guns and pikes, being then and there unlawfully and traitorously gathered against our said Lord the King, falsely, wickedly, and traitorously did prepare, levy, ordain, and make publick war against our said Lord the King, against the duty of the allegiance of him the said *Henry Howley*, against the peace of our said Lord the King, his crown and dignity, and contrary to the form of the statute in such case made and provided.

And the said Jurors of our said Lord the King, upon their oath, do further present, that the said *Henry Howley*, being a subject of our said Lord the now King, and not having the fear of God in his heart, nor weighing the duty of his allegiance, but being moved and seduced by the instigation of the Devil, and entirely withdrawing the love and true and due obedience, which every subject of our said Lord the King of right ought to bear, towards our said Sovereign Lord the King, and wickedly devising and intending to disturb the peace and public tranquillity of this kingdom, on the 23d day of *July* in the 43d year of the reign of our said Lord the King, with force and arms, at *Croker's-lane* aforesaid, in the city and county of the city of *Dublin* aforesaid, unlawfully, maliciously, and traitorously did compass, imagine, and intend to raise and levy war, insurrection and rebellion, against our said Lord the King within this kingdom, and in order to fulfil and bring to effect the said traitorous compassing, imagination, and intentions last-mentioned of him the said *Henry Howley*, He, the said *Henry Howley* afterwards, to wit, on the said twenty-third day of *July*, in the said 43d year of the reign of our said Lord the King, with force and arms, at *Croker's-lane* aforesaid, in the city and county of the city of *Dublin* aforesaid, with a great multitude of persons whose names are to the said Jurors unknown, to a great number, to wit, to the number of one hundred persons and upwards, armed, and arrayed in a warlike manner, to wit, with swords, guns and pikes, being then and there unlawfully, maliciously, and traitorously assembled and gathered together against our said Lord the now King, most wickedly, maliciously, and traitorously did ordain, prepare, levy and make public war against our said Lord the King, his supreme and undoubted Lord, contrary
to

to the duty of the allegiance of him, the said *Henry Howley*, against the peace of our said Lord the King, his crown and dignity, and contrary to the form of the statute in such case made and provided.

The prisoner pleaded, *Not Guilty*.

He was now asked, Was he ready for trial? and answering, that he was, the following Jury was sworn, after twelve were set by on the part of the Crown, and fourteen challenged peremptorily on the part of the prisoner.

Robert Ashworth,
Thomas Williams,
Philip Abbott,
John Raper,
William Dickson,
Francis Foster,

John Hodges,
Thomas Macready,
William Porter,
John Rogers,
Charles Warmingham,
James West,

The prisoner was given in charge.

Mr. TOWNSEND opened the indictment.

Mr. ATTORNEY-GENERAL.

My Lords and Gentlemen of the Jury,

The prisoner, *Henry Howley*, is brought before you to answer upon a charge of high treason, and if the evidence which will be offered against him, shall be such as deserves credit in your estimation, it will appear to you distinctly, that he was an early, a principal and a persevering conspirator.

Gentlemen, the prisoner is indicted upon two clauses of the statute, the 25th Edw. III. First, for compassing and imagining the death of the King; and secondly, for compassing to levy war against him; and there are in the indictment several distinct overt acts laid, which specify the means used by him to accomplish his traitorous designs. It is stated, that he conspired and agreed with others to levy war against the King—that he procured arms and ammunition with that intent—that he hired a house or store, for the purpose of receiving and concealing arms and ammunition, to be used in the rebellious
and

and then that he did actually levy war;—and the Court will inform you, that where a man conspires with others to levy war against the King, and that afterwards such war is actually levied, it is an overt act of both species of treason, the compassing and imagining the death of the King, and the compassing to levy war against him.

Gentlemen, this conspiracy, which we have hitherto traced with some success, commenced with activity in the course of the spring; the conspirators conceived new hopes and enlarged their designs, upon the delivery of the King's message to Parliament upon the 8th of *March*.—It then became necessary to take a store-house in some obscure part of the town, not much frequented, and which would not be liable to suspicion, and where, by small degrees, arms and ammunition might be collected, for the horrible purposes which the conspirators had in contemplation. Having conceived this design, it became necessary to look out for a man, who by his trade might have some pretence for taking such a place, and upon whom they would have the most implicit reliance.—Accordingly, I am instructed to state to you, that it did occur to them, that *Howley*, by trade a working carpenter, would be a proper man to become the lessee of such a warehouse.—Accordingly, he was applied to upon the subject, and it will appear that he took a lease from a person of the name of Coleman, of those premises in *Mafs-lane* or *Croker's-alley*, in which the celebrated depot was afterwards discovered. Accordingly, upon the 24th of *March* last, within a fortnight after the delivery of the King's message, the prisoner did sign and seal a lease, accepting a demise of that very ware-house which was afterwards converted into a rebel magazine.

I do not think, after proving that lease, and the possession under it, that it would be incumbent upon us to take any further step, because it rests upon the prisoner to get rid of the violent presumption which arises against him, that he took it for the purposes to which it was applied. But it may be satisfactory to trace him somewhat further, and to shew, that he made use of the warehouse—that he frequented it—that he worked in it—that he used it in every respect in furtherance and prosecution of those schemes for which it was originally taken.

In the month of *May* last, he seduced a journeyman carpenter to breakfast with him in *High-street*, and he afterwards

terwards took him to this ware-house in *Mass-lane*, where he shewed him the weapons which were collected, the preparations which were going forward, and in short adopted such a line of conduct, as leaves no doubt that he was an active person, instrumental in forwarding the works in it.—He continued to employ this man, who for several weeks saw preparations of pikes and other weapons, to be employed in the horrible purposes of treason.—It is not necessary to follow the conduct of the prisoner in the depot from day to day; but to shew you that he never relinquished his design, we shall produce evidence to prove that upon the 23d of *July* he was in the depot, saw the preparations, attended to what was going forward, and appeared to all intents and purposes one of the conspirators embarked in the design.

During the entire of this period, from *March* to *July*, it might be natural to suppose that he lived in the depot—it would have been a cheap residence. But whether he was apprehensive of fire, or was unwilling to introduce his wife into the secret, or thought that by living there with company about him, he might be more liable to be discovered, he took a lodging in *High-street*, not far from the depot, and continued to occupy that lodging until the breaking out of the conspiracy. We shall produce the person with whom he lodged—he searched for him upon the night of the 23d of *July*, and it appears, that without notice to the landlord, or any suspicion of his intention to remove, he and his wife eloped about eleven o'clock. From that time he was not heard of until the moment of his arrest. Whether he remained at the depot during the last week, when the preparations were more active, the witness is not very positive; he has no distinct recollection of having seen him for the last five or six days—but his wife remained in the lodging till the moment of the insurrection. From that time he secreted himself—diligent search was made for him in vain—the person with whom he lodged knew nothing of him; but at length information was had, and Major *Sirr*, with his usual activity, went in search of him.

Gentlemen, it is my duty to tell you, that the circumstances attending the arrest of a person accused, may be favourable or injurious to him. He may adopt such a conduct

conduct at the time of his arrest, as may induce a jury to imagine, that he was innocent. On the contrary, certain feelings of guilt, which the mind cannot readily discharge, are frequently betrayed at the moment of arrest. Wherever such circumstances appear, they may be taken into calculation against a prisoner. As an open, fair conduct, is favourable to him; so a conduct directly the reverse, must tend to his crimination.

It will appear that he and two other working carpenters were employed about six o'clock in the evening, when Major *Sirr* and his attendants entered the place in which they were. The moment he advanced, the prisoner ran from the spot where he was at work. This induced Major *Sirr* to think he was the man he was in search of, and he cried out to his party, "Here he is!—*here he is!*"—The Major advanced, and was probably well known to every man there. He saw the prisoner go to his coat, and take something out of the pocket;—he delayed, until he ascertained what he was about, and seeing a pistol in his hand, the Major snapped his, and unfortunately missed fire. He withdrew to adjust his pistol, or provide another, and called upon his attendants to come up. At that moment, a man of extreme good character, of the name of *Hanlon*, advanced with intrepidity to assist. By this time, the prisoner concealed himself in a corner, behind a wall which protected great part of his person, and he levelled his pistol at *Hanlon*. The latter perceived what he was at, and prepared to defend himself. Who fired first I cannot particularly state; but they exchanged shots. *Hanlon* was killed upon the spot, and the prisoner received a wound in his left hand.

In the confusion which must necessarily follow such a lamentable occurrence, the prisoner contrived to escape; but was immediately pursued. In the short period which elapsed, he not only concealed himself, but re-charged the same pistol, and was prepared to defend himself again, by taking away the life of another person; but his intrepidity failed him, and while he was denouncing death to all around him, he was seized, disarmed, and put into a state of security.

Gentlemen, it is my duty to tell you, that you are not to pass a verdict upon this trial for the death of *Hanlon*. The prisoner is now before you upon a charge of high treason, not of murder; and therefore you are not to consider the death of *Hanlon* as evidence of the prisoner's guilt

guilt as a traitor. But you will give it due weight, as a circumstance affecting the prisoner, and tending to fortify the evidence for the Crown upon the charge of treason; for the consciousness of some guilt may be fairly inferred from such apprehension of arrest, and from such premeditated means to prevent it.

You will consider, whether a pistol was a necessary weapon in the exercise of his trade. You will recollect, how he abandoned his lodgings at the moment of the insurrection. You will connect the circumstances of defending himself so violently, when a peace officer appears to arrest him, with the fact of his being actual lessee of the depot. And you will consider, whether the whole does not form a strong body of presumptive evidence, to support the actual charge of high treason brought against him by the Crown.

Gentlemen, I shall not trouble you any further with statement. My wish is, that the circumstances applicable to the case may have due operation upon your minds, and nothing more; and therefore I repeat, that the death of *Hanlon* is no more to be taken into consideration, than if the prisoner had fired at him and missed. We offer evidence of the resistance he made, as betraying a consciousness of guilt, tending with other facts, to corroborate the evidence for the Crown. But God forbid, that I should endeavour to impress upon you, or that you should, if I were capable of making the attempt] to—convict a man of one crime, when he was upon his trial on a different and distant accusation.

Edward Coleman,

Examined by Mr. MAYNE,

Q. Pray, Sir, do you know *Philip Molloy*?

A. I do.

Q. Do you know *John Coleman*?

A. I do.

Q. What relation is he to you?

A. My brother.

Q. Do you know of any store-house or yard, which they had to let in spring last?

A. I do.

Q. Where were they situated, and what were they?

C

A. It

A. It was formerly a malt store, and is situate in *Thomas-street*.

Q. Where was the door of it ?

A. There was a door in *Thomas-street*, and a door in *Marshal-lane*.

Q. Describe where that lane begins, and where it ends ?

A. One part of it runs into *Bridgefoot-street*, otherwise *Dirty-lane*, and the other end runs into *Marshal-lane*, towards the *Marshalsea*.

Q. How is it situated with respect to *Thomas-street* and the *Bull Inn* ?

A. It is situated between *Thomas-street* and the lane, towards the rear of the *Inn*.—There is a gate-way communicating with *Thomas-street*, and you pass by a house on each side, through an entrance of ten or twelve yards.

Q. Is that *Marshal-lane* called by any other name ?

A. I cannot say.

Q. That place belonged to *Philip Molloy* and *John Coleman*.

A. It did.

Q. Were you present when any lease was taken of those premises ?

A. I was present when *Mr. Howley* took a lease of it.

Q. Look at the bar, and see is the person there ?

A. I have seen him but twice, and I believe he is the person.

MR. MACNALLY. Do you speak positively ?

A. No.

MR. MAYNE produced a lease to the witness.—Did you see that lease before ?

A. I did.

Q. Did you see it executed ?

A. I did.

Q. By whom ?

A. By *Philip Molloy*, *John Coleman*, and *Henry Howley*.

Q. Did you see them sign their names ?

A. I did.

Q. Was that the lease which was executed, when you say the premises were let to *Mr. Howley* ?

A. It is.

Q. Was the lease executed the day it bears date ?

A. It

A. It was executed the 27th, though dated the 24th of *March*.

Q. What state is that place in now?

A. It is entirely demolished.

Q. How came it to be demolished?

Mr. MAC NALLY. To your own knowledge:—

Mr. MAYNE. Do you know it is demolished?

A. I do.

Q. At what time was it demolished?

A. In the week after the insurrection broke out—in the course of that week it was entirely demolished.

Q. By whom was it demolished?

A. I do not know—but by the soldiers.

Q. By a *furor*. For what reason?

A. Because of pikes and ammunition being found in it?

Mr. MAC NALLY. Do you know that, or have you only heard it.

A. I only heard it.

Mr. MAYNE. *Q.* You saw that lease signed by *Henry Howley*?

A. I did.

Q. You saw him a couple of times?

A. I did, to the best of my knowledge—first, before the lease was taken, and at the time it was taken.

Q. What was it you saw him about before the lease was executed?

A. To talk about the lease—he came to enquire about the store.

Q. Was it upon any other reason, or occasion, that you saw him?

A. I am confident it was upon no other.

Q. Now, look at the bar, and see whether you can say upon your oath, the prisoner is the man?

A. I cannot positively say—his features were more regular than they are now—he has a mark upon his eye*.

* The prisoner's right eye was much confused by a shot received from *Hanlon*, in attempting to arrest him, as mentioned afterwards.

John Coleman,

Examined by Mr. ATTORNEY-GENERAL.

Q. I believe you and your partner, Mr. *Molloy*, were the proprietors of a malt store at the back of *Dillon's* in *Thomas-street*, and which extends from that to *Marshall-lane*?

A. We were.

Q. Do you recollect having demised it to any person?

A. Perfectly.

Q. Are you an executing party to that lease? (*showing him the lease.*)

A. I am:—that is my hand-writing.

Q. Who is the lessee?

A. *Henry Howley*.

Q. Look at the bar—is that the man?

A. He is.

Q. Do you know any place called *Croker's-alley*?

A. I do.—It is that lane which is commonly called *Mafs-lane*, and sometimes *Marshall-lane*.

Cross-examined by Mr. MAC NALLY.

Q. You put an advertisement into the public papers, offering this place to be let to any person who would come to take it?

A. No, Sir, I did not.

Q. What then?

A. I put an advertisement upon the gate-way in *Thomas-street*.

Q. You gave notice to the public, that tenement would be let?

A. I did.

Q. Did the prisoner take it from you?

A. He did.

Q. If you had known the purpose to which it was afterwards applied, supposing it to be as stated, you would not have let it?

A. Certainly not.

Q. The prisoner is a carpenter?

A. I was informed so.

Q. Is it not common for persons wishing to take houses,
to

to employ a carpenter to inspect them, and make a report as to the state of them?

A. I think it natural.

Q. You say, that *Howley* took this place in his own name?

A. He did.

Q. He imposed upon you, as you think, with respect to the purpose for which it was taken?

A. He told me it was for a timber store, and a workshop for carpenters.

Q. He might have been imposed upon afterwards, in letting it to others, as you think he imposed upon you?

A. Certainly.

Q. How long had he possession before the 23d of July?

A. I gave him possession either upon the 24th or 25th of March, early in the evening; for he told me when he applied upon the 20th of March, that he had received some commissions, and if he had not possession immediately, he would be liable to the consequence of failing in executing them.

Q. Might he not have let this place, which afterwards turned out to be a depot, to persons appearing to be respectable, without having a knowledge of the purpose to which it was to be applied?

A. He certainly might.

Q. Suppose a respectable gentleman of the name of *Ellis* came and said he wanted such a place, the prisoner might have let it for profit?

A. It is possible.

Q. He did not disguise his name to you?

A. He did not.

Q. Is not that his name to the lease?

A. It is.

Q. He practised no imposition upon you?

A. He did not.—When he applied first to me, I had not seen him before—he gave me his name, *Henry Howley*, which I have since heard is his real name.

Patrick Finerty,

Examined by Mr. TOWNSEND.

Q. Pray, Sir, what is your employment in life?

A. A carpenter.

Q. Do

Q. Do you know *Henry Howley*, the prisoner ?

A. Yes, Sir.

Q. Point him out ?

A. He is there, (*pointing to the prisoner.*)

Q. How long have you known him ?

A. Several years back.

Q. Do you remember having seen him in the month of *May* last ?

A. Yes, Sir.

Q. You were then lately returned to *Dublin* ?

A. Yes.

Q. When did you go to see *Howley* ?

A. At his lodgings in *High-street*.

Q. At what time of the day did you go ?

A. About breakfast time.

Q. At what time in the month of *May* ?

A. About the middle of the month.

Q. And you found him at home ?

A. I did.

Q. Did you breakfast with him ?

A. I did, Sir.

Q. Had you any particular conversation with him then ?

A. No, Sir—not that I can remember.

Q. Where did you go to from his lodging ?

A. I went to *Thomas-street* with him.

Q. Did you go into any house with him ?

A. I did, Sir.

Q. Where was it ?

A. In *Mafs-lane*.

Q. Was it a dwelling-house, or a ware-house ?

A. A ware-house, seemingly.

Q. What did you see there ?

A. A great deal of timber boards.

Q. Any other kind of timber ?

A. Yes, what we commonly call *tile-baths*.

Q. What do you mean by that ?

A. Six of them are cut out of a board.

Q. What length are they ?

A. Ten feet, or so.

Q. What thickness ?

A. One inch and half square.

Q. By

Q. (By the Jury. Were they whole deals cut into boards?)

A. I took them to be so.

Q. Were there any spikes upon them?

A. Upon a few.

Q. What were they made of?

A. Iron, I suppose.

Q. Was there a considerable number without spikes, when you saw them?

A. There was.

Q. For what purpose did Howley take you there?

A. To work, I believe.

Q. What reason have you for believing that it was for that purpose—did he engage you to work there?

A. He brought me there purposely to work in.

Q. Did you work there afterwards?

A. I did.

Q. Did you work there constantly, or from time to time?

A. From time to time.

Q. How long in the whole?

A. Three or four days—never a whole week.

Q. Were you paid wages?

A. I was, part of the time.

Q. Who paid you?

A. A gentleman, who seemed to be foreman there.

Q. What is his name?

A. Graham.

Q. Was that his real name?

A. I believe not.

Q. Did you hear his real name there?

A. I did.

Q. What was it?

A. Quigley.

Q. In what kind of work were you employed there?

A. Chiefly in repairing part of the store, putting up a studded partition.

Q. Do you recollect any thing particular with regard to a door?

A. I do.

Q. Where was it?

A. In the first loft—There was a door about three feet wide, to be filled up with brick to look like the wall—a deception like.

Q. Was

- Q. Was it to open as a door?
 A. It was.
 Q. Into what did it fit?
 A. Into a brick wall.
 Q. What was that brick wall made for?
 A. For concealing arms, I suppose.
 Q. Did you see the prisoner work at these things?
 A. He did.
 Q. At what particularly?
 A. At that door.
 Q. At any thing else?
 A. Yes.
 Q. At what else?
 A. He helped to make some tables which were made there.
 Q. Did you continue there until the 23d of July?
 A. I did, at intervals.
 Q. Did you see the prisoner often there, during that time?
 A. He was frequently there, but not to say constantly.
 Q. You were not there constantly?
 A. No, Sir.
 Q. Was he always there when you were there?
 A. No, Sir.
 Q. Upon the day you first went with him, did he shew you any thing particular?
 A. Yes.
 Q. What was it?
 A. He shewed me a blunderbuss.
 Q. Do you recollect what he said upon shewing you the blunderbuss?
 A. I do—he said something concerning a plane—he asked me, “was it not a good plane.”
 Q. Was there any part between the months of May and July, when you staid away longer than you did at other times?
 A. There was.
 Q. How long?
 A. Ten or twelve days.
 Q. For what reason did you stay away?
 A. I did not conceive I was properly paid.
 Q. How came you to return?
 A. By the instigation of one of the men who was sent for me.

Q Do

Q. Do you recollect the night of the 23^d of July?

A. I do.

Q. Do you recollect having been there in the course of that week?

A. I do.

Q. Did you see *Howley* there during that week?

A. I believe I might once.

Q. Did you or did you not see him?

A. I cannot swear.

Q. After the insurrection of the 23^d what became of you?

A. I was taken on the *Monday* following, and put into the *Prévot*.

Q. How long were you kept there?

A. Five weeks and three days.

Q. What became of you afterwards?

A. I was discharged and went to work.

Q. Where were you when *Howley* was arrested?

A. At *Pimlico*, at work in the same yard.

Q. Did you see Major *Sirr* come into the yard?

A. Yes, he was the first man I observed.

Q. Where was the prisoner then?

A. He was inside of a bench at work.

Q. Was he near you?

A. Not very far from me.

Q. What did he do upon Major *Sirr* coming in?

A. He left the bench, and went into a corner—to a recess.

Q. What did he there?

A. I cannot say—I did not see him there?

Q. What did Major *Sirr* do?

A. He snapped at him.

Q. His pistol did not go off?

A. No, Sir.

Q. What became of Major *Sirr* then?

A. He retired.

Q. Did any other person advance?

A. There did.

Q. Who advanced?

A. I understood his name was *Hanlon*.

Q. What happened?

A. There were two shots fired, close one after another.

Q. One was fired by *Hanlon*?

A. Yes—I did not see either of them fire.

D

Q. Where

Q. Where was the other shot fired from?

A. I believe from the corner.

Q. Did you hear the shots?

A. I did.

Q. From what place did the shots come?

A. One of them was immediately after the other.

Q. You say one shot was fired by *Hanlon*?

A. Yes.

Q. You heard the other shot fired?

A. Yes.

Q. Could you know by hearing it from whence it came—whether it was from that recess into which the prisoner had run?

A. Yes.

Q. Was there any other person there?

A. No other that I could see.

Q. Did the shot which came from that recess hit any body?

A. I believe it hit *Hanlon*.

Q. What became of him?

A. He fell.

Q. What became of him then?

A. He was dead, I suppose—I saw him lying dead.

Cross-examined by Mr. CAMPBELL.

Q. You were employed by the prisoner to make pikes?

A. No, I do not say that.

Q. I ask you this, did you not know at the time you were employed, for what purpose the works were carrying on?

A. I did.

Q. For what purpose did you know them to be carrying on?

A. For the purpose of insurrection.

Q. Do you not think it is a very bad thing for any man to be concerned in such an employment?

A. I do, Sir, at present.

Q. Did you think so at the time you were employed?

A. I cannot say what I thought then?

Q. Try and recollect yourself—did you at that time consider it good or bad?

A. I thought partly good of it at that time.

Q. Do

Q. Do you not believe that the consequence would be the murder of many honest and loyal people ?

A. I do believe it.

Q. Do you conceive that any work which must be attended with such consequences must be a good work ?

A. No, I do not.

Q. Did you as soon as you knew of this work being for such a bad purpose, give information of it ?

A. I did not.

Q. Do you not conceive that it is the duty of a good and loyal subject, to give information of treason as soon as he comes to a knowledge of it ?

A. I suppose it is—I believe it is.

Q. Did you then do that which a good man ought to do ?

A. I did not.

Q. How soon did you give information ?

A. Not till I was taken latterly.

Q. When was that ?

A. The sixteenth of this month.

Q. Were you taken before that ?

A. I was.

Q. When ?

A. The 25th of July.

Q. Who took you ?

A. A party of the Liberty Rangers.

Q. For what ?

A. For being out late.

Q. How long were you in confinement ?

A. Five weeks and three days.

Q. You gave no information during that time ?

A. No.

Q. When were you taken the second time ?

A. The 16th of this month.

Q. How soon after did you give information ?

A. Not till the Tuesday following.

Q. Will you account why you continued so long knowing of this conspiracy, and the consequences it produced, yet not give information during all that time ?

Q. Because I did not wish to make myself an object before the public, by giving information.

Q. What do you mean by making yourself an object ?

A. By coming on the Green Cloth to prosecute any man.

Q. Do you consider it a disgrace to prosecute any man for treason?

A. No, I do not.

Q. Then what was your objection to giving information?

A. I told you already.

Q. What was it?

A. I did not wish to make myself an object by coming into Court.

Q. Do you conceive yourself an object now?

A. I do.

Q. Of what kind?

A. Of giving evidence against the prisoner.

Q. Have you not given information to save your life?

A. I have in hope of it, but I have not been promised it.

Q. Was any promise made to you?

A. None.

Q. (*By the Jury.* You have stated, that in the warehouse you saw a great many pieces of timber 10 feet long, and no question was asked you for what purpose they were made. For what purpose do you think they were?)

Mr. MAC NALLY. I must object to the witness giving his opinion.

Juror. (Do you know the purpose for which these pieces of timber were designed, or did you learn at the place for what purpose they were designed?)

A. I understood they were for pikes.)

Q. (*By the Court.* Was it so understood by the people there?)

A. It was generally understood that they were for pikes.)

Q. (*By the Jury.* If those pieces were rounded by a plane, would they make such handles as you saw with other pikes?)

A. They would.)

John Fleming,

Examined by Mr. ATTORNEY-GENERAL.

Q. Where did you reside previous to the 23d of July last?

A. With the widow *Dillon* in *Thomas-street*.

Q. Is that a public-house?

A. It is.

Q. What is the sign of it?

A. The *White Bull*.

Q. Were you acquainted with the ware-house or depot, in which arms and ammunition were collected?

A. I was.

Q. How was it situated with respect to the *White Bull Inn*?

A. There is nothing but the wall between the yard and the store—the store lay just behind the yard.

Q. Were you hostler at the inn?

A. I was.

Q. Were you known to be so?

A. I was.

Q. Were you long acquainted with the object for which the stores were employed?

A. I was a good while—I cannot say how long.

Q. Were you acquainted with it three months before the insurrection?

A. I was that at any rate.

Q. What sort of work was going on there?

A. Generally making pike-handles and heading them, and different other works I did not understand.

Q. Did you see any arms or ammunition?

A. I did.

Q. Of what kind?

A. Blunderbusses, pistols, firelocks, and ball cartridge of all sorts.

Q. Did you hear any conversation at that time what the preparations were about?

A. I heard very little conversation in regard to that, and what I heard I could not well tell it now. I had no opportunity of being much in company, only going in and out.

Q. But did you understand in general what the object was?

A. First

A. First to take *Dublin*.

Q. Were these preparations for that?

A. They were.

Q. Did you understand that there was any particular place in the city to be attacked?

A. Yes, the Castle—they would rather have that first.

Q. Were you acquainted with a man of the name of *Henry Howley*?

A. I was.

Q. Look at the bar?

A. I know him very well.

Q. Is the prisoner the man you knew by the name of *Henry Howley*?

A. He is.

Q. Did you see him at the *White Bull*; or in that neighbourhood?

A. I saw him at the *White Bull*, and at the stores.

Q. At what stores?

A. The place where they were working.

Q. Do you mean the place where the arms and ammunition were collected?

A. Yes.

Q. What was the last day you saw him there?

A. I saw him on the 23d.

Q. Of what month?

A. *July*, I believe.

Q. Pray what was the last hour that you saw him that evening?

A. It was late, I cannot particularly tell the hour.

Q. Pray did you ever see him at any particular work there?

A. I saw him making pike handles as I thought, I was told they were pike handles, and several things I did not understand what they were.

Q. Pray did you hear or see any thing of a proclamation in that warehouse?

A. I did hear there was such a thing.

Q. Did you hear any part read?

A. A small sketch or so.

Q. Do you recollect about what hour they left the depot that night?

A. It was after 9 o'clock.

Q. Did you know particularly every person that went out

out that night, or were there so many that you could not notice them?

A. I did not know the half of them but by eye-sight.

Q. Did you know a man that went by the name of Graham?

A. I did.

Q. Was that his real name?

A. That was the name I heard him called at first, but afterwards I understood his name was Quigley.

Q. What trade was he?

A. A bricklayer.

Q. Who was it did the brick work of the partition you mentioned formerly?

A. It was Quigley did the brick part of it.

Q. Did you see pikes and other arms taken out of the store that evening?

A. There were.

Q. Were there any persons dressed in uniform?

A. There were.

Q. How were they dressed?

A. In boots, white pantaloons and waistcoat, and a green coat with lace and epaulettes, and a cocked hat and feather like a field officer.

Q. Did you see Quigley dressed that evening?

A. He was, he wore a green coat and one epaulette, boots and pantaloons and waistcoat, I suppose he expected to be a general.

Q. Where did they go?

A. Towards Thomas-street.

Q. Were there any shots fired?

A. There were.

Q. By whom?

A. I cannot exactly say.

Q. Were they by some of the party?

A. They were.

Cross-examined by Mr. MAC NALLY.

Q. And you wore a hat and feather?

A. No.

Q. You were not a general?

A. No, Sir.

Q. You were as respectable as Quigley who had got an uniform?

A. I was

- A. I was not dressed.
- Q. Did you get nothing at all?
- A. I got a blunderbuss.
- Q. Did you understand what you were to do with it, were you to go to the *Castle*?
- A. As far as I could.
- Q. Were you not made a privy counsellor?
- A. I do not know.
- Q. What business were you?
- A. I was an hostler there?
- Q. Then you were made master of the horse?
- A. No.
- Q. There were many things that you did not understand, did you not understand that the rebels might have killed the king's subjects?
- A. There were many things that I did not know.
- Q. Did you see the ink-bottles, were they for the Secretary of State?
- A. I did see them.
- Q. Were they plastered over?
- A. I cannot say.
- Q. There were many people?
- A. There were.
- Q. Was this honest man there, except as a journeyman?
- A. I cannot say.
- Q. Were you acting as an honest man?
- A. I acted as others.
- Q. When you held a blunderbuss to take the castle, and kill every man who opposed you, did you think yourself honest then, I allow you are honest now?
- A. I am as honest now as I was then, I never stole any thing.
- Q. Were you an honest man when you intended to commit murder; did you read the ten commandments; you are a modern philosopher perhaps, and know nothing of religion?
- A. I have read them.
- Q. Does not God say, "Thou shalt do no murder?"
- A. I was seduced as many others like me.
- Q. When you went out to commit many murders in pursuit of your honourable purpose, and you say you were as honest then as you are now, did you intend as well to plunder as to kill?
- A. I did not intend to plunder.

Q. You would not take a sideboard of plate, if it fell in your way.—Were all the men in the depot as honest as yourself?

A. They might, or they might not.

Q. Would it be possible for any man against whom a charge was brought, and standing upon his trial, to get witnesses who were in that depot, and known to be as honest, as you say you yourself are?

A. Very like they might.

Q. Do you not believe, that from the Generalissimo down to the private, they were all rebels?

A. I know they were.

Q. Let me ask you then, is it not to save your own life you come here to give testimony?

A. I was not promised my life.

Q. If you had been promised your life, you would have nothing to fear; are you not afraid that you will be hanged, like some of your companions that have gone before you?

A. I do not know whether I will or not.

Q. Have you not heard, that one-third of the persons who were in the depot have been hanged?

A. I have heard that some of them were.

Q. And are you not as liable as any others, to be hanged, if you were sent upon your trial?

A. I cannot say.

Q. Do you expect to be hanged?

A. I do not know whether I will or no.

Q. You deserve it—but believe you will not be hanged, on account of the good act of giving evidence.

A. I do not know—I never committed murder.

Q. But if you were tried, do you not deserve to be hanged as well as any others?

A. I believe if there was evidence against me, I would.

Q. Have you not come here this day to prevent evidence being brought against yourself—tell truth?

A. What is that?—I wish to hear it again.

Q. As you think yourself are liable to be hanged, do you not come here to prevent yourself from being hanged?

A. I came here as a witness, but do not know whether I will be hanged or not.

Q. Were you ever a watchman?

A. I was.

Q. In St. Catherine's parish?

E

A. Yes.

A. Yes.

Q. You did your duty well?

A. I did.

Q. Why were you dismissed?

A. Because I dismissed myself.

Q. You dismissed yourself?

A. I did.

Q. On your oath?

A. I did.

Q. You were in the army?

A. I was, in the *Kildare* Militia.

Q. You dismissed yourself there?

A. No, I was dismissed.

Q. With a concert of drums after you?

A. No.

Q. Were you obliged to quit?

A. Many a good man was.

Q. What for?

A. On suspicion.

Q. And tried by a court-martial?

A. Yes.

Q. And found guilty upon suspicion?

A. I was, being a mile from quarters.

Q. A suspicion of what?

A. A suspicion of being in bad company.

Q. You remember a woman upon that occasion?

Lord NORBURY. The man is not bound to answer to criminate himself.

Mr. MACNALLY. My Lord, after sentence and judgment, he can have nothing to apprehend. I have looked into this subject; with which I have taken some pains, and I think the sentence of a court-martial may be pleaded in bar to an indictment.

Lord NORBURY. Where the court-martial is instituted under an act of parliament, to try criminals of a certain description, a trial and conviction of that sort may be pleaded in bar.

Mr. Baron GEORGE. You have a right to ask the witness generally to impeach his credit.

Q. Were you not charged before the court-martial with having ravished a woman?

A. Upon

A. Upon my oath, I never was charged with such a thing.

Q. What were you charged with?

A. For being a mile from quarters. I will swear twenty oaths I never was charged with such a thing as you mention.

Q. Do you know *Farrell*, who was a witness here during these trials?

A. I know many a man of the name, but not the witness.

Q. Was he in the regiment with you?

A. Never.

(*By the Jury.* Inform us, what are the other things which you say the prisoner made?)

A. I cannot describe them.

Q. What were they like?

A. They were things like tables.

Q. Were they for committing murders?

A. They were.—Every thing that was there was for that purpose.

Q. Did you see pikes made there?

A. I did.

Q. Did the prisoner make any?

A. He did.

Q. Did you see him?

A. I did.)

Edward Wilson, Esq.

Gave the same evidence as upon former trials. *Vid.* No. I. *Kearney's Case*, page 37.

Serjeant Thomas Rice;

Proved the Proclamation as before. *Vid.* No. I. *Kearney's Case*, page 54.

Joseph Harrison,

Examined by Mr. TOWNSEND.

Q. Do you know *Henry Howley*, the prisoner at the bar?

A. Yes, I do.

Q. Did he ever lodge at your house?

A. He did.

Q. Where is your house situate?

A. No. 24, *High-street*.

Q. When did he come to lodge there?

A. As near as I recollect, the beginning of *February* or latter end of *January*.

Q. How long did he continue to lodge there ?

A. He continued to lodge there, until on or about the 23d of July.

Q. Was he there on the night of the 23d of July ?

A. I went up stairs about half after eleven—I rapped at every door—an answer was made at every door, but his ; no answer was made from his room.

Q. Did you go into his room ?

A. No, Sir.

Q. How soon after did you go in ?

A. In three or four days I broke it open.

Q. Was it open to your knowledge from the night of the 23d of July, until you broke it open ?

A. Not to my knowledge.

(By a Juror. Was the prisoner in the room that night ?

A. He might be there and not answer.)

Q. When you went in upon breaking open the door, what did you find there besides the furniture ?

A. A few articles of clothes—old worn-out rags.

Q. Of what value might they be altogether ?

A. I cannot swear to the value of them ; but my wife said they were not worth above five or six shillings.

Q. Did you ever see *Howley* from that night till this time ?

A. No, not to know him—but I saw a prisoner go by tied, and they told me it was *Howley*.

Q. Was his wife ever at your house since the 23d of July ?

A. Not to my knowledge—she might for what I know.

Q. What was the last time you saw him there before the 23d of July ?

A. I cannot recollect seeing him for a fortnight or three weeks before, when he paid me what he owed me.

Q. You cannot recollect having seen him after that ?

A. I cannot say—my memory is bad at best, and I cannot recollect him.

Not cross-examined.

Extracts from the Proclamation were here read.

Vid. Kearney's Case, page 54.

Major

Major *Sirr* called.

Mr. MAC NALLY. I am very well aware of the purpose for which Major *Sirr* is to be examined. I am aware that what would be evidence in the case of felony, is evidence in treason,—that is, the evidence must apply to the matter charged. Here it must relate to some overt act in the indictment. My Lords, I think I stand upon strong ground, which enables me to say, that the evidence must apply to some overt act.

Mr. *Baron* GEORGE. I do not mean to stop you, Mr. MAC NALLY, in your objection; but surely a man's conduct, when apprehended for any crime, may be given in evidence, as shewing a consciousness of guilt or innocence. It is in that view, we consider the evidence as offered, and in no other respect as relevant. Surely they may shew, that a man accused of a crime fled from justice. You might as well object to some of the former evidence, and we should say we have received wrong evidence, though it respected the behaviour of a man when apprehended for any crime.

Mr. MAC NALLY. My Lords, I do not wish to obtrude myself upon the Court. The objection occurred suddenly to me, and I have urged it without much consideration. I submit to what the Court determines upon the subject, and shall not press the objection further.

Charles Henry Sirr, Esq.

Examined by Mr. TOWNSEND.

Q. Do you know *Henry Howley*, the prisoner at the bar?

A. I do.

Q. Do you recollect having seen him at any time lately, and where?

A. I saw him on the evening of the 16th of this month.

Q. Where?

A. At a house in *Pimlico*.

Q. Upon what occasion did you go there?

A. To arrest him.

Q. State what passed when you went there?

A. I

A. I entered a place, where I received information he was at work—I saw three or four men at work—upon my entering a man left his work.

Q. Was that the prisoner?

A. I cannot immediately tell—the man went to a recess—I went immediately forward, suspecting he was the person I was looking for. He took up a coat, and I pushed forward before a gentleman who entered with me, Capt. *Bloxham*. I saw the man stoop and take up a pistol. The moment I saw that, I levelled and snapped at him, but missed fire; and I retreated to settle my pistol and get out another, and called for assistance.—Soon after I saw *Hanlon* go up to the place which I had left. Two shots were fired. The second report, I am convinced, was from *Hanlon's* pistol. I saw the position he was in, and instantly he turned upon his right side and fell down. I heard his report after the other. He died almost immediately. I called for further assistance. During this time the person ran away. *Finerty*, who gave evidence here, was at work with that man.

Q. (By the court. The man who ran away?

A. Yes.)

I called to *Finerty* and to another person who was there, to approach me;—they did so, and did not attempt to fly. After a great deal of confusion, some of the *Liberty Rangers*, and of the 93d regiment, came, and pursuit was made and the prisoner was brought in by one of the Highlanders and one of the *Liberty Rangers*, in about a quarter of an hour—that was the prisoner now at the bar—he was wounded, and was bleeding fresh in the left hand*. The two men told me, they found him concealed, armed with a pistol.

Q. (By the court. Did they say that in his presence?

A. Yes.)

I charged him with the murder of *Hanlon*, and asked him why he killed him?—He said, “why did ye fire at me?”—or, “why did he fire at me?”—I am not certain

* It seems the prisoner had his left-hand over his eye when he received *Hanlon's* shot, which lodged in his hand and confused his eye as above-mentioned. *Vid.* page 11.

tain which was the expression. The *Liberty Ranger* gave me the pistol he took from the prisoner. I examined it, and it appeared as if fresh fired from. I found it re-loaded. I drew the charge, and there was powder and ball in it.

Cross-Examined by Mr. CAMPBELL.

Q. At what hour was this?

A. When I entered the yard, it was a little before six.

Q. Were you in your uniform?

A. No.

Q. Was *Hanlon* in uniform?

A. No.

Q. Did you produce any warrant?

A. No, I had not time to do such a thing.

Q. Are you a magistrate of the city of *Dublin*?

A. No.

Q. (*By the Court.*) Is that place in the city of *Dublin*?

A. I understand so.

Q. You had no warrant?

A. No.

Q. If you had time you could not have produced one?

A. No.

Q. You have already said, that on being asked why he fired, the prisoner replied, "why fire at me"—did he not mean to convey, that if he had not been fired at, he would not have fired?

A. I believe so.

Q. Do you not believe that a very innocent man, if two men not in uniform and without any authority came into a room, and one of them snapped a pistol at him, would be justified in firing at them?

A. Yes:—but I do not think that a labouring man would quit his ordinary work at which he was employed, and take up a pistol, without any thing being said or done to him.

Q. You think that no honest man, if fired at, would return the fire?

A. I said no such thing—I would not fire, nor attempt to use arms against any man who had not arms.

Q. But the bare circumstance of a man having arms, is a sufficient justification for you to fire?

A. I would

A. I would wish to be first certainly, where I saw him disposed to resist, and there was a charge against him.

William Holmes,

Examined by Mr. ATTORNEY-GENERAL.

Q. Look at the prisoner, and inform the Court whether you ever saw him before?

A. Yes, I did.

Q. Mention, if you please, as distinctly as you can, the circumstances which occasioned your seeing him, and what passed?

A. It was all over, and he was after murdering the man before I saw him. Captain *Blaxham* pursued with us, and I made all the efforts I could, till I seized him up in a back hay-loft. I went to the loft and put up my head, and upon seeing him I cried out, "Here he is!"—"I am," said he, "and if you offer to come here, I will put this into you."

Q. What did he say he would put into you?

A. A pistol.

Q. Had he a pistol in his hand at the time?

A. He had, and he pointed it down at me.

Q. Mention what took place then?

A. I jumped down to the other loft and called for assistance. One of the Highlanders came up first into the loft. I desired him to fire. Justice *Drury* was behind him, and when the Highlander fired, I got Serjeant *Warren's* halbert and got up and seized the prisoner, who had a pistol in his hand, and I took it from him and gave it to Major *Sirr*.

Q. Where was this hay-loft?

A. In *Pool-street*.

Q. How far from *Pimlico*, where the prisoner worked?

A. About eight houses—not far from the corner.

Cross-examined by Mr. MAC NALLY.

Q. This man was wounded?

A. He was, in the hand.

Q. You had no uniform?

A. No.

Q. He

Q. He did not know that you were a Conservator of the Peace, or one of the Liberty Rangers?

A. No.

Q. Neither did he know Justice Drury?

A. I cannot say.

Q. You put the Highlander before you, and Justice Drury behind you?

A. No, I went first before the Highlander.

Here the Case was closed on the part of the Crown.

Mr. MAC NALLY.

My Lords and Gentlemen of the Jury,

I stand in one of those situations, which perhaps is the most difficult for a professional man to discharge his duty to his client with satisfaction to himself: because, it is one of those cases, where a defence cannot, from the nature of the charge against the prisoner, be stated by instructions to the Counsel, so as to enable him to come forward with any kind of arrangement or preparation in his mind. I am obliged, the very instant I may say, to extract a defence for my client from what has been given in evidence against him. But I have this consolation—I am addressing his peers—I am addressing that body of men, to whom the Constitution and the Law has entrusted his life, and who will decide upon the case before them, with as much candour and as much attention to humanity, where there is room for a merciful disposition, on the part of the Jury, as if the man now upon his trial were of the first character in society.

Gentlemen, in this case you have much more evidence, in my humble opinion, to discharge from your minds, than you have to attend to. The ATTORNEY-GENERAL told you, with that candour which has marked his conduct through the laborious duty of this Special Commission, that trifling and collateral circumstances ought not to make a deep impression upon your minds. I am warranted in saying, that the doctrine is not singular; for upon the trials in *England*, it was urged by that great character who now adorns our Bench of Chancery, and who was then *Solicitor-General*, in his
F address

address to the Jury, in *Hardy's case*; and having his words, I am called upon to use them in preference to my own. In addressing the Jury, that great man, following what was laid down by the Attorney-General of England, upon the same trial, said, " I have even been taught to think, that a Jury sworn to decide upon the life of their fellow-subject, are to decide only according to the truth of the case, which is made out in evidence before them, without turning to the right or to the left, keeping perpetually the middle course, and attending only to the evidence before them, the law as it affects that evidence, and what is the conclusion they ought to come to, without entering into consideration, on the one side or the other, of any political circumstances, whatever; and much should we have to lament, if political circumstances, or any circumstances, beyond the particular case before the Jury, should in any degree weigh with them. The trial by Jury is the great safety of the state itself, and every individual member. If we suffer it to be perverted one way or the other, we remove from the constitution of the government, the great controul which the people of this country have reserved in their own hands; that controul which prevented the tyranny of *Cromwell* from reaching to such extent as it might have done, which first shook James the Second upon his throne, and which at all times has preserved, and which at all times will I trust, be found sufficient to preserve the rights and privileges of the subject, as well as the constitution of the state."

How do I apply this?—thus:—The prisoner at the bar is entitled, as a member of society, to that attention, which you, his Jury, are bound to pay to every thing that is urged upon his part by his Counsel, and in doing that, you ought to divest your minds, which is the great task you have to perform—to divest your minds of the knowledge you have of the circumstances existing in this country, but not given in evidence on this trial.—Having stated this, give me leave to ask, not what the defence is, but what has there been proved against the man? In doing this, you have to consider only the facts which have been proved. If they are true, and amount to what the law calls treason, conviction must be the consequence.

consequence. If false, or if doubtful, acquittal must be the result. But you have still more to consider, which is this:—You may believe that all the facts are true, and yet you have a right to acquit—you must acquit if you do not give full credence to the witnesses. I will take upon me to say, that the only two witnesses, who have deposed to the overt acts laid in the indictment, are what the law calls *Approvers*, that is, men actually concerned in the villainy which they describe, and pouring that upon the head of another man, which they themselves should answer for—making their offences the means of their own preservation. Consider them in this light. Suppose them tried. Have you not evidence enough from their own confession to convince you, that they ought to be convicted of treason? Such conviction, if on record, would have closed their mouths for ever; for by such evidence they would be as dead in law, as if the halter which they merited, and would now hand over to the prisoner, had been twisted about their own necks, and they had suffered, as they ought to have suffered, execution upon a gibbet. Conviction would have deprived them of all credit;—in contemplation of law they would be extinct, so that they could not open their mouths against the prisoner. Then Gentlemen of the Jury, how does he stand? They are admitted as witnesses against him, because in law they are competent. But you are to look to their credit, and in doing so you are to consider this. What is it they have said against themselves? Not what they have said against the prisoner; because, before you should charge the prisoner with any thing they said against him, I submit, that you should examine from what source that evidence flowed. If you find the stream poisoned or polluted, look to the spring. If you find the stream foul and contaminated, you will not drink of the infected composition—you will not give credit to those men of corrupt and villainous hearts—conspirators against their country—conspirators with France, combining to do what? To put the King to death, to massacre his loyal subjects, to overturn the government, wading through blood to accomplish those nefarious objects, and having failed, now to save their own blood, coming forward to swear against the prisoner, and to make his blood the expiating offering of their

crimes ; but justice with horror rejects such a sanguinary sacrifice. I will not pretend to say, they are destitute of all credit—that they are not entitled to some degree of belief ; but their testimony is of such a nature, that unless it be corroborated in the cardinal facts which they have sworn to, and not in collateral circumstances, they ought not to receive any credit from you. Will you believe one of them swearing he had no hope of his life ? Can you believe that a wretch, an assassin, embarking in a conspiracy to kill hundreds or thousands, would have any hesitation to save his own life by the conviction of a single man ? The witnesses are acting upon the principle of self-preservation. They are taken as traitors—they are instructed, or they know, that by becoming informers they are safe. Can any witness be impeached in so strong a manner as these witnesses are, out of their own mouths, or their own oaths ? Then how far should their credit go ? No further than to establish the truth of their own turpitude—against themselves their own evidence ought to have weight, but, against any other man, should be light as the gossamer in the scale of justice. But it may be said, here are two witnesses swearing and corroborating each other in evidence of the same facts. I answer, if you cannot credit one, you would not credit one thousand of the same description, swearing to the same fact, because the conclusion is the same. If one such witness swears to save his life, so would one thousand such witnesses, and your determination upon their credit must be the same as to all.

Gentlemen, I thought from the state of Mr. ATTORNEY GENERAL, that witnesses would not have been brought forward to the transaction which passed in the carpenter's yard ; however, it has been brought forward ; but I do insist, it is not for you on this trial to decide on that evidence, whether this man has perpetrated an act of justifiable homicide—of manslaughter—or murder, it is not now before you ; it is collateral matter, not relevant to the overt acts of treason charged, nor is evidence that you can apply to any one of them, it is a specific offence not now charged upon the prisoner. Indeed it appears he acted upon the defensive. Self-preservation is the first law of nature. Providence has armed every creature, except man, with instruments of defence ; but man, coming into the world, naked and unarmed, is gifted with understanding

understanding which points out to him, that as nature gave him no means, he must supply himself with weapons to guard against an attack; and ought not every man in these times, to carry arms, who has a right to do so, when his life may be the forfeit of such a want of protection?

Gentlemen, I am not urging this with an intention of presenting to your minds, a sentiment that every man should have arms in his possession. The law has made the distinction. But if a man, who is authorized to carry arms, be attacked by another not having a civil authority, and who, though he might have been an honest man, had a well-known ferocity of disposition, has not the former a right to defend himself? The prisoner did not commence the attack; the Major began, by snapping his pistol at the prisoner. It did not go off. Was the prisoner to wait the event of a second?—Was he to stand as a target to be fired at? If so, he might as well have said, “Do not miss me a second time—direct your fire into my bosom—here is my heart—pierce it!” Human nature could not submit in this manner, and therefore, though the facts urged may have been improperly proved, for the purpose of shewing a resistance, yet it becomes a circumstance in his favour; because it is founded in the feelings and principles of natural law. And I say this, that the Town Major of *Dublin* has no right by his office to take any man, without a warrant, unless the party be in the act of committing a felony, or breach of the peace, or some such crime. Then every man may become a peace officer. The Major’s office is to manage the troops, and see the guards set; he is not a municipal officer of the city; and I am ashamed to see the magistrates of *Dublin* admit such an usurpation of their privileges and their charter. If the transaction which has appeared, took place in the county, there Major *Sirr* is a magistrate, having a commission of the peace for the county; but if he had shot the man, having no warrant or information upon oath, it would be a murder in contemplation of law, however government might deal with him as an object of royal mercy. I do not mean to say, that it would be a murder committed through malignity, but rather from an over-zeal and ardour in what he might think his duty. He would

would have acted wrong, however, in contemplation of law—he could not have justified the homicide—and the mercy of the Crown would be his only resource.

Gentlemen, I have said sufficient upon that point. I will conclude with one single observation. I have spoke so often upon this subject, that it is possible many of you may have heard what I am going to inculcate into your minds. When you are considering the atrocity of the charge, you will reflect, that in proportion to the atrocity ought the weight of the evidence to be. In the civil law, which, thank God, does not rule in this free country, though in some instances it is received; I say, that by the civil law, the rule of evidence is, that the greater the offence, the less evidence is necessary for conviction. But our law says, that in proportion as the offence is great, so ought the evidence be great and preponderating against the party accused, and so it is virtually expressed by the statute of treasons,

Gentlemen, there is one observation more occurs—look into the depot—what do you find there?—a banditti of rebels. Most properly, his Majesty's law officers have brought witnesses from that depot. I wish they had brought more; for how stands the prisoner; could he bring witnesses from that kind of hell, I would call it, from that nest of fiends, to give evidence in his favour? No; the Crown could procure those witnesses, but the prisoner could not. The witnesses for the Crown come forward under the promise, at least hope of mercy; they come forward upon the faith of actual promise, or the sanction of implied engagement, which insures protection to them. But in the nature of things, could the prisoner hold out such hopes to influence, or to procure witnesses? Let him promise what he would, or even give all he possessed, he could not prevail upon witnesses to come here. The witnesses for the Crown, after their examination, go to a place of ease and safety. Those who might appear for the prisoner, know not how they might be dealt with—they might be committed to custody and brought to trial, and perhaps convicted upon that trial. I draw this inference from what I have stated, that the persons concerned for the Crown are enabled to secure the attendance of witnesses; but the prisoner cannot equally protect those who might appear for him.

In the course of the examination which has been had, you have heard some little collateral matters given in evidence, not attached to the overt acts in the indictment. In all this, you will see, whether the evidence be such as ought to convict the prisoner, taking into consideration, not so much the facts which have been given in evidence against him, as the character and self-conviction of those men, which have been brought forward to detail those facts.

No evidence was given on the part of the prisoner.

Mr. Baron GEORGE.

Gentlemen of the Jury,

The prisoner, *Henry Hawley*, stands indicted of two species of treason:—1st. For compassing and imagining the death of the King; and 2d. For compassing to levy war against him. Several overt acts of these respective species of treason are stated in the indictment, and if you believe that the evidence shews the prisoner to be guilty of any one of these overt acts, in that case you should find him guilty; and the consequence will be the same, as if you found him guilty of every overt act contained in the indictment. I will state the overt acts to you. The prisoner is charged with being one of a number of conspirators, who had agreed to levy war. You, Gentlemen, are to find, whether he was one of such a conspiracy. He is charged with having assisted in the providing and collecting of arms, causing arms to be made for the purpose of levying war; and that he procured and hired a certain warehouse, in which arms and ammunition were to be collected and kept, in order that divers traitors might there receive them, and use the same for levying war against the King; and that he, the prisoner, did prepare and levy against the King, the war, which was raised and levied in consequence of that conspiracy.

The learned Judge then proceeded to state the evidence which had been adduced in support of the indictment, and made occasional observations. He said, that the prisoner did not use a fictitious name in taking out the lease—that persons engaged in traitorous designs generally used fictitious names in the prosecution of

of their plans; but that the prisoner at the bar did not do so.

The evidence of Major *Sirr* did not go in direct terms to support any of the overt acts in the indictment. It was matter for the consideration of the Jury, so far only as it tended to shew a consciousness in the mind of the prisoner, of guilt, when he took up a mortal weapon and killed a man, rather than submit. If any notice were given to the prisoner, of the particular crime charged against him, and after that he stood upon the defensive, rather than submit to a trial, it would look like a condemnation of himself. But it did not appear in this case, that the prisoner had any particular notice of the charge for which he was taken into custody. He retired into a recess, and stood upon his defence till he killed a man:—that might go to shew, that the prisoner was conscious of some crime or other, for which he was liable to punishment, but not that he was conscious of this particular crime charged upon him by this indictment, because he had no notice that he was charged with any particular crime; and therefore the evidence does not establish the purpose for which it was produced. The prisoner had no intimation, that there were officers of justice who were in pursuit of him; and it was a prudent thing, where legal process was to be executed against a man, depriving him of his liberty, that some notice should be given of the persons who execute that process, and the authority under which they act; at the same time it must be known, that resistance of this nature is highly criminal.

Upon the evidence, the learned Judge said, he would submit a few observations.—There appeared to be most direct, and positive, and indubitable evidence, that the prisoner took the premises, which were afterwards used as the depot, and became the tenant of them, and then the material fact for the consideration of the Jury was, whether when he took them, he did so, for the purpose of making them a store-house of implements of mischief, which they afterwards contained? The intention with which a man does any thing, is best discovered by his subsequent actions. It is stated in evidence, that the prisoner was extremely anxious to get immediate possession, and that he assigned as a reason that he had commissions to execute, which he would lose unless he got possession soon. The next thing which occurred was, not only, that he

he worked there, but he induced others to work there in making those weapons, which were afterwards used in the insurrection for the purpose of effecting a revolution by force, by murder and massacre. The purposes for which the depot was used, appears from the testimony of *Fleming* and *Finerty*; they both had access to the place, being of the same description of persons who resorted there, and if the Jury believed their testimony, the works in which all the persons there were employed were for the purposes of treason. These witnesses were embarked in the same object—they have acknowledged by their own evidence, that they have committed treason, for which their lives are forfeited by the law of the land; and undoubtedly, testimony coming from persons acknowledging they are capable of committing, and who have committed such great crimes, ought to be received with great caution. According to the law of the land, an accomplice in any offence, from Treason down to the lowest crime, is a witness admissible in a court of Justice; but his testimony is always left to the Jury, who will determine upon the credit which such witness is entitled to—and a Jury would be justified, if they believed the testimony of such a witness, standing naked and uncorroborated, to find the person against whom it was given, guilty of even a capital crime. In general, however, such evidence is received with caution, and the Jury look for circumstances of corroboration. Here they would observe, that this case does not rest upon the testimony of a single accomplice—there is the concurring testimony of two accomplices.

But it is said, that the testimony of both is derived from the same tainted source. The Jury would consider, how far the testimony of those two men was consistent with each other. But the most material consideration was, how far their testimony was corroborated by the other witnesses in the case,—shewing, that what they have said of the prisoner is true. It was alleged, that *Finerty* and *Fleming* were in that depot, and having entered there with the wicked intention which they have acknowledged, their evidence of the manner in which the prisoner was employed, should be considered as the charge of a guilty, upon an innocent man. But what are the additional facts?—The witnesses say, the prisoner worked there as a carpenter, and there is evidence that he became tenant

of these premises—that he was of that employment; and that he took them, with an immediate pressure of the possession, stating that he had commissions to execute, which he would lose if he did not obtain instant possession.

The prisoner has produced no evidence to shew, that he employed the place in any useful or innocent purpose; but all the evidence in the case went to shew, it was employed in forwarding the worst and most criminal designs; and therefore, the Jury would consider whether, when the prisoner took these premises, he did so with the view imputed to him or not?—Undoubtedly every thing which was said, tending to reflect upon the testimony of accomplices, deserved the attention of the Jury. No doubt, men acknowledging themselves ripe for murder might well be suspected, as capable of committing perjury. There was good reason why their testimony should be received with great caution, but no reason why it should be altogether dismissed from consideration.

When traitors have for their object an attack upon the Castle, and the taking of the city of *Dublin*, it must naturally follow, that an immense number of men must be employed to carry such a design into execution. It could not be effected by a single man, or by a few men. It is a work which requires the co-operation of a great number of accomplices, of various classes and descriptions. And therefore much of the danger to which men are exposed, who acted with conspiracies of that sort, arises not only from the resistance which they may meet with, from the brave and loyal men who are to be attacked, but from the suspicion which the conspirators have of each other; being obliged to associate with many profligate, vile and criminal men. The danger to arise from such conspiracy is much diminished by a want of confidence in each other, and the testimony which they give against each other, when the hand of the law falls upon them. It is therefore necessary to give protection to such evidence; it should be always received, but it was not desired that it should be received with every degree of credit. Every channel leading to a discovery of secret measures should be at all times open; but a Jury should be cautious in believing evidence of that description, unless it was supported by other circumstances, which gave weight

weight and probability in addition to the intrinsic efficacy of the evidence itself.

Upon the whole of the case, the Jury would consider, therefore, whether the prisoner was one of the conspirators charged in the indictment? whether that conspiracy had for its object an attack upon the King's government, and to effect a revolution by force? whether he took the warehouse in order to store it with arms for the purpose of that conspiracy? and whether he levied war, or joined with those who did? for in treason, every one partaking in the crime is a principal. It was competent for the prisoner to shew the purpose with which he took the warehouse, and that he took it for a lawful occasion; but no evidence of that sort was given. If the jury believed the charges against the prisoner, they would find him guilty; if they had any rational doubt, it was their duty to acquit him.

The jury without retiring from the box, found the prisoner *Guilty*.

Mr. ATTORNEY GENERAL applied that judgment should be pronounced upon the prisoner.

The indictment was read and the prisoner was asked what he had to say, why sentence should not be passed upon him.

Prisoner. I have nothing to say, but to beg for some time to make my peace with God.

MR. BARON GEORGE.

Henry Howley! you stand now convicted of the greatest crime which any man can be guilty of in this world. It is astonishing, how any human creature, with a heart to feel for his kind, or a mind retaining the slightest impression of a future state, could remain for months together contemplating the horrors which must inevitably take place before a revolution could be effected. Did you not think, before you could effect your purpose, of the innumerable murders of decent and honest, not to say great and virtuous persons, which must have taken place, and without giving to them the warning of one moment. A multitude of you take society by surprise; you sally

forth upon your fellow-creatures unarmed and unresisting, and you put to death, men, who had never committed the remotest offence against you. But it is not only the greatest weakness, but the greatest folly that can be conceived. Has it ever been heard that such efforts of rebellion have been successful? if you had been acquainted with the history of your own or other countries, you must have known that every attempt of the sort has been defeated. Your attempt, praise be to God, has failed; and under his divine protection every future project of a similar nature will end in the same manner, in the destruction of all those who enter into it, either by the sword of loyalty, or the hand of the law. Nothing can result to the instruments of such designs but complete ruin; death to themselves, beggary and misery to their wives and children; yet such is the infatuation which marks their conduct, that although they every day see the unhappy victims of similar delusion swallowed in the gulph of destruction, they are not to be instructed by their fate. But, I trust, this wretched infatuation will end here. I trust, that if there are still in this country, men, who are not acted upon by grace, to relinquish their wicked designs against the peace and happiness of society, that they will at least yield to the suggestions of common sense, the least particle of which would direct them to consult their own safety, by withdrawing themselves from projects utterly impracticable, and inevitably destructive. How is it possible, that any man could propose success to himself in such attempts? how hope by such means, or for a single moment to oppose a regular force of 3000 men, horse, foot; and artillery, under the command of government; besides such an armed host of brave yeomanry, independent of the mass of unarmed loyalty, which in such a crisis would fly from every quarter to the support of government and civil order? did any of you ask yourselves, what would have been the consequences even of a momentary success effected by a deluded rabble, running suddenly upon a course of murder, glutting their wicked dispositions and gratifying their malice? Could you or any man suppose, that any thing beneficial to the country could have been effected by such men. It is lamentable to reflect on the horrible doings of the 23d. of July. Of the crimes of that night you appear to have been a prime mover; the conspirators placed great confidence in you; you

you were the tenant of these premises, where were stored those evils which have partially fallen upon the country, and which were intended to involve it in general horror and destruction; and without repentance and remorse, you were for three months or more, deliberately preparing to let loose this curse upon your fellow-citizens and countrymen. Pray, what must you have supposed to be the nature of that God who governs the universe, if you imagined that he would allow such crimes to go undetected and unpunished, or that he would not visit the land with all the plagues of divine wrath, if those crimes had not been avenged by the hand of justice?

I trust, unhappy man, that you will use the time allowed you here, in a sincere effort of repentance, and in making all possible atonement for your grievous offences, before you appear before the throne of that all wise and just God, who entertains peculiar horror of those crimes, which affect the peace and order of society; all whose ordinances enjoin the preservation of his creatures, until the natural time destined for their departure from this life, unless falling beneath the just infliction of the law; for it is expressly stated that "*Whosoever sheds the blood of a man, by man also shall his blood be shed.*" The laws of God and man require the sacrifice, and your life must be rendered up an atonement, such as it is, to the injuries which you have assisted in bringing upon your country.

The Learned Judge then pronounced the sentence in the usual form.

The prisoner was executed on *Wednesday* the 28th of *September*, at the front of the Prison in *Green-street*.

Counsel for the Prisoner.

Counsel for the Crown.

Assigned.

Mr. Attorney General.

Mr. Mac Nally.

Mr. Mayne.

Mr. B. Campbell.

Mr. Townsend.

Assistant.

Mr. Ridgeway.

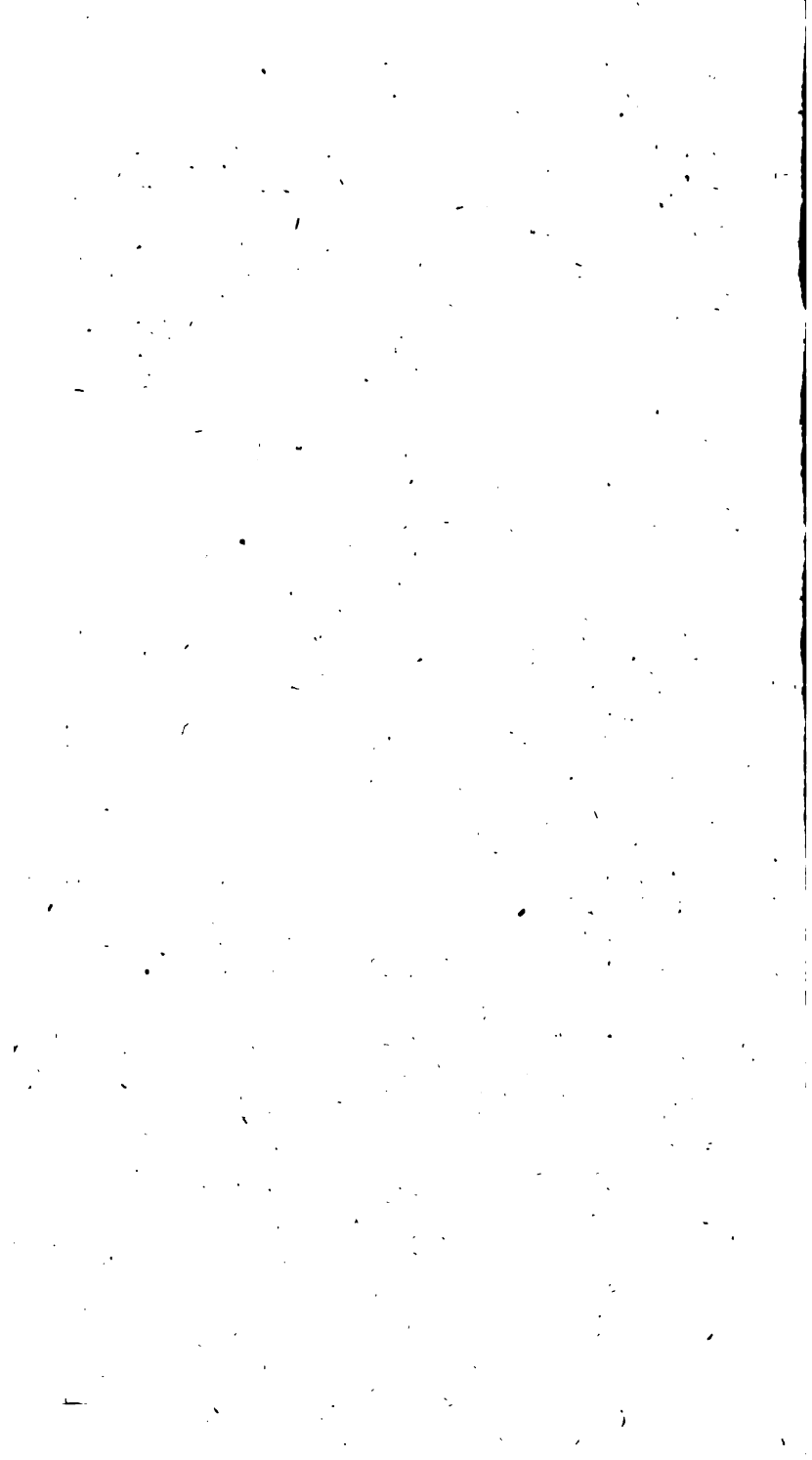
Mr. Bethel.

Crown Solicitors.

Agent.

T. and W. Kemmis.

Mr. L. Mac Nally.



A

R E P O R T

OF THE

P R O C E E D I N G S

IN

Cases of High Treason,

SPECIAL COMMISSION.

Saturday, the 1st of October, 1803:

John Mac Intosh was this day put to the bar for trial.

COUNSEL had been assigned him, at his own request upon a former day, and he was also previously arraigned upon the following Indictment:

County of the City of } THE Jurors of our Lord the
Dublin, to wit. } King, upon their oath present;
that *John Mac Intosh*, late of *Thomas-street*, in the city and
county of the city of *Dublin*, carpenter, a subject of our said
Lord the now King, and not having the fear of God in
his heart, nor weighing the duty of his allegiance, but
being moved and seduced by the instigation of the Devil,

B

as

as a false traitor, against our Lord the now King, his supreme, true, lawful, and undoubted Lord, the cordial love, and true and due obedience, which every true and dutiful subject of our said Sovereign Lord the King, should bear to our said Lord the King, wholly withdrawing and contriving, and intending the peace and common tranquillity of this kingdom to disquiet, molest, and disturb, and the Government and Constitution of this realm to change, subvert, and alter, and our said Lord the King, from the Royal state, title, honor, power, Imperial Crown and Government of this kingdom, to depose and deprive, and our said Lord the present King, to death and final destruction to bring and put, he, the said *John Mac Intosh*, on the twenty-third day of *July*, in the forty-third year of the reign of our said Lord the King, at *Thomas-street* afore said, in the city and county of the city of *Dublin* afore said, with force and arms, falsely, wickedly, and traitorously did compass, imagine, and intend, our said Lord the King, then and there, his supreme, true, and lawful Lord, of and from the Royal State, Crown, Title, Power, and Government of this realm, to depose, and wholly deprive, and our said Lord the King to kill, and bring and put to death.

And that to fulfil, perfect, and bring to effect his most evil and wicked treason, and treasonable imaginations and compassings afore said, he, the said *John Mac Intosh*, as such false traitor, as afore said, on the said twenty-third day of *July*, in the said forty-third year of the reign of our said Lord the King, and on divers other days and times, as well before as after the said day, at *Thomas-street* afore said, in the city and county of the city of *Dublin* afore said, with force and arms, falsely, maliciously, and traitorously did meet, consult, combine, conspire, confederate, and agree, to and with divers other false traitors, whose names are to the Jurors afore said unknown, to raise, levy, and make public and cruel insurrection, rebellion, and war against our said Sovereign Lord the King, within this kingdom, and at another time, to wit, on the said twenty-third day of *July*, in the said forty-third year of the reign of our said Lord the King, with force and arms, at *Thomas-street* afore said, in the city and county of the city of *Dublin* afore said, the said *John Mac Intosh*, as such false traitor as afore said, in further prosecution of his treason and treasonable purposes afore said, falsely,

falsely, wickedly, and traitorously did arm himself with and did bear and carry one blunderbuss, and one pistol, with intent to associate himself with divers other false traitors, armed with guns, swords, and pikes, whose names are to the said Jurors unknown, for the purpose of raising, levying, and making insurrection, rebellion, and war against our said Lord the King, and of committing and perpetrating a cruel slaughter of and amongst the faithful subjects of our said Lord the King.

And that afterwards, to wit, on the said twenty-third day of *July*, in the said forty-third year of the reign of our said Lord the King, with force and arms, at *Thomas-street* aforesaid, in the city and county of the city of *Dublin* aforesaid, the said *John Mac Intosh*, as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes aforesaid, falsely, wickedly, and traitorously did procure great quantities of guns, pistols, gunpowder, and shot, and did make and prepare, and did cause and procure to be made and prepared, a great number, to wit, one thousand pikes, with intent that divers other false traitors, whose names are to the said Jurors unknown, should be armed with the said guns, pistols, and pikes, and being so armed, should use the same, and the gunpowder and shot aforesaid, in and for the raising, making, and carrying on insurrection, rebellion, and war against our said Lord the King, and in and for the committing and perpetrating a cruel slaughter of and amongst the faithful subjects of our said Lord the King, within this kingdom.

And that afterwards, to wit, on the said twenty-third day of *July*, in the said forty-third year of the reign of our said Lord the King, with force and arms, at *Thomas-street* aforesaid, in the city and county of the city of *Dublin* aforesaid, the said *John Mac Intosh*, as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes aforesaid, with a great multitude of persons, whose names are to the said Jurors unknown, to wit, to the number of one hundred persons and upwards, armed and arrayed in a warlike manner, to wit, with guns, swords, and pikes, then and there unlawfully and traitorously assembled, and gathered together against our said Lord the King, falsely, wickedly, and traitorously did prepare, levy, ordain, and make public war against our said Lord the King, against the duty of the allegiance of him,

him, the said *John Mac Intosh*, against the peace of our said Lord the King, his crown and dignity, and contrary to the form of the statute in such case made and provided.

And the said Jurors of our said Lord the King, upon their oath, do further present, that the said *John Mac Intosh*, being a subject of our said Lord the now King, and not having the fear of God in his heart, nor weighing the duty of his allegiance, but being moved and seduced by the instigation of the Devil, and entirely withdrawing the love, and true and due obedience, which every subject of our said Lord the King should, and, of right, ought to bear towards our said Sovereign Lord the King, and wickedly devising and intending to disturb the peace and public tranquillity of this kingdom, on the twenty-third day of *July*, in the forty third year of the reign of our said Lord the King, with force and arms, at *Thomas-street* afore said, in the city and county of the city of *Dublin* afore said, unlawfully, maliciously, and traitorously did compass, imagine, and intend to raise and levy war, insurrection, and rebellion against our said Lord the King, within this kingdom; and in order to fulfil and bring to effect the said traitorous compassing, imaginatious and intentions last mentioned of him the said *John Mac Intosh*, he the said *John Mac Intosh*, afterwards, to wit, on the said 23d day of *July*, in the said 43d year of the reign of our said Lord the King, with force and arms, at *Thomas-street* afore said, with a great multitude of persons, whose names are to the said Jurors unknown, to a great number, to wit, to the number of one hundred persons and upwards, armed and arrayed in a warlike manner, to wit, with swords, guns, and pikes, being then and there unlawfully, maliciously, and traitorously assembled and gathered together, against our said Lord the King, most wickedly, maliciously, and traitorously did ordain, prepare, levy, and make public war against our said Lord the King, his supreme and undoubted Lord, contrary to the duty of the allegiance of him, the said *John Mac Intosh*, against the peace of our said Lord the King, his crown and dignity, and contrary to the form of the statute in such case made and provided.

The prisoner pleaded, *Not Guilty*.

The

The following Jury was now sworn, after six were set by on the part of the Crown, and eighteen were challenged by the prisoner :

Robert Law, Jun.	William Courtney,
Philip Abbott,	William Dixon,
Mont. Crothers,	Francis Foster,
Robert Cantrel,	John Hodges,
Edward Butler,	Charles Warmingham,
Charles Lett,	Samuel Warren,

The prisoner was given in charge.

Mr. TOWNSEND opened the indictment.

Mr. ATTORNEY GENERAL,

My Lords and Gentlemen of the Jury,

You, Gentlemen, have attended to the indictment by which the prisoner is charged with the crime of high treason. You have heard him deny that he is guilty of that crime, and it will be your duty to attend to the evidence which will be offered upon the part of the Crown, to substantiate the indictment—In doing this it will be our duty, first to submit to you, that sort of evidence which has been hitherto resorted to, for the purpose of establishing, beyond difficulty or doubt, the existence of a treasonable conspiracy and rebellion, and then to call your attention to those parts of the case which affect the prisoner personally as engaged in that conspiracy and rebellion, and participating in the general crime, of which so many have been already accused and found guilty.

The principal overt acts in the indictment, which demonstrate the prisoner's guilt, and which will be chiefly relied upon, are, that he, with others, collected arms and ammunition for the purpose of rebellion; and that afterwards, upon the 23d of *July*, he appeared, armed, aiding and assisting other rebels in levying war against the King. Gentlemen, if we establish one or other of these overt acts, the prisoner must be found guilty, under the indictment which has been preferred against him.

Gentlemen, The conspiracy having been formed, it was found necessary in the course of last spring to have some two or three houses taken, for the purpose of collecting

lecting arms and ammunition with secrecy. The prisoner was accordingly employed to take the house, No. 26, in *Patrick-street*, where he continued to reside from the month of *May*, in this year, when he took the demise, down to the explosion, which took place upon the 16th of *July*. It will appear, that the prisoner concealed in the house a number of short poles, the use of which was not known for a considerable time, but it is now conceived that they were intended to be screwed together, and to form pike handles. He also cast several bullets, and at length converted his house into a gun-powder manufactory: But he had not proceeded far in this project when an accident occurred, by which his designs were defeated. Providentially upon the 16th of *July*, an explosion took place in his house, which, though not loud enough to give public alarm, was sufficient to frighten his neighbours, who accordingly sent for the fire engines, conceiving it possible that the house might be in flames. You will observe the prisoner's conduct upon this occasion; it will appear, that instead of calling in the assistance of the fire-engines, or of his neighbours, the first thing he did was to put a padlock upon the door, and then to appear at an upper window, from whence he declared, that what happened proceeded from some dyers who were making an experiment, and that all was safe, and that he did not want assistance; and he earnestly entreated his neighbours and the fire-engines to withdraw. These circumstances having been the next day communicated to a peace officer, were not perfectly satisfactory to him, and imagining from the anxiety with which the possession was held, that something material might be discovered, he and his assistants broke open the door; they found two chests, in one of which were 50 bullets and a volume *Volney's Revolution of Empires*!—In a back room upon the same floor, they found a mill or an instrument with a roller, which I am instructed had evident marks of having been lately employed in grinding salt-petre. They also found a number of short poles about three feet each in length, and a small quantity of unfinished gunpowder. Search was made for the prisoner, but he had absconded, and a man of the name of *Keenan* (who had been wounded, partly by the explosion and partly by the glass of a window, which he was breaking to procure air) was arrested. He was closely examined, but died without making any discovery.

A labourer also of the name of *Byrne*, who attended the house, was taken up and confined, but he has always denied his knowledge of what his employer was about, and and there is reason to believe he was ignorant of it.

Gentlemen, these circumstances might, at the outset, be sufficient to satisfy your minds, if we had no other evidence to produce. The fact of his taking the house at the particular time he did, his employing it for those purposes, his locking the door, and resisting the interference of the neighbourhood, would satisfy the mind of any man, that he was concerned with others in that conspiracy, which afterwards broke out.

The house being thus deranged, it became necessary for him to look for another place equally friendly to his horrid purposes, and without mentioning where he thought proper to fix his abode, I believe, gentlemen, you are already attending him from this house in *Patrick-street*, to the celebrated depôt in *Mafs-lane*. We trace him there lending that assistance to the rebellion which the accident had prevented him from continuing in *Patrick-street*.—He there practised his trade as a carpenter—he rounded pike handles; he filled beams with gunpowder, for the purpose of explosion, We find him afterwards continuing the same line of conduct upon the 23d day of *July*. He worked there the entire of that day, and particularly had in the evening been preparing the beams and other machines of destruction.

Having thus brought the rebellion to a crisis, he did not desert the plan which he was so very instrumental in forwarding. He appeared armed with a blunderbuss in the street; he attended the crowd; he marched into *Thomas-street*, and he was one of the body who actually stopped a carriage in which were two gentlemen and a lady—The wounds which those gentlemen received were from pikes, and therefore I attribute nothing more of this transaction to him, than his standing by, a witness to that most lamentable and horrid catastrophe.

Gentlemen, as soon as the business of the evening was over, I discover nothing more of the prisoner; I presume he fled.—I am unable to trace him through the mountains of *Wicklôw*, where there is strong presumption he went with other leaders; but in the village of *Arklow*, he was taken up as a suspected person. He was asked what he

was,

was, ~~when~~ he was going, and what was his name; he said his name was *Magrath*, that he was by trade a millwright, that he was going to *Waterford* upon business.— If any thing more were wanting, this false account of himself, and his, flying so lately from *Dublin*, connected with his proceedings in *Patrick-street*, will be strong indeed to fortify the other evidence which we have to offer to you, and which, if you credit, will leave no doubt, that the prisoner is guilty of the overt acts laid in the indictment.

Gentlemen, having stated the evidence which will be submitted to you, I shall not trespass upon you further.— You are apprized from your knowledge of the duty of Jurors, that you are to discharge your minds of every thing, but the evidence which you shall hear. I have endeavoured to detail it in such a manner as to remove any difficulty in comprehending the witnesses who shall give it, and you will pronounce such verdict upon the whole as will be salutary to the public and satisfactory to your own minds.

PATRICK CODD.

Examined by Mr. MAYNE.

Q. Do you see your name subscribed as a witness to that lease? (*shewing the witness a lease.*)

A. I do.

Q. Is that your hand-writing?

A. It is.

Q. Did you see it signed and sealed by any person?

A. I did.

Q. By whom?

A. By Mr. *Holmes* and Mr. *Mac Intosh*.

Q. Look at the bar—do you know the prisoner?

A. I do.

Q. Did you ever see him before?

A. I did.

Q. Was the prisoner the person who signed the lease?

A. That man signed the lease.

Q. (*By the Court.* By what name did he sign it?

A. I did not particularly notice.

Q. Look at the lease, and see what name he wrote?

A. *John Mac Intosh.*)

Q. Did

Q. Did you understand from the prisoner what trade he was of?

A. I heard him say he was a carpenter.

This was a lease of a house, No. 26, in *Patrick-street*, bearing date the 30th of *May*, 1803.

This witness was not cross examined.

JAMES. MOONEY,

Examined by Mr. TOWNSEND.

Q. Where do you live?

A. In *Patrick-street*.

Q. At what number?

A. No. 25.

Q. Do you recollect an explosion having taken place any where near you some time since?

A. I do.

Q. In what house?

A. Next door to me.

Q. At what number?

A. No. 26.

Q. Upon what day did that explosion take place?

A. Upon *Saturday* before the rebellion—the 16th of *July*.

Q. At what hour?

A. Between six and seven in the evening.

Q. Were you then at home?

A. I was at home.

Q. You heard a noise?

A. I did.

Q. Was it very loud?

A. It was pretty loud.

Q. What did you do?

A. I heard people in the street cry out, that the house was falling.—I went into the street, and I saw a splinter of fire drop from a window.

Q. Upon seeing that fire, what did you do?

A. There was a report, that the house was on fire, and I returned back to take care of my own house.

Q. Did you come out afterwards.

A. I remained some little time, attending my own business, and then I came out, and saw *Mac Intosh* looking out of his window.

C

Q. Do

Q. Do you mean the prisoner ?

A. Yes.

Q. Did you hear him say any thing that time ?

A. No, Sir.

Q. Where did you go then ?

A. I went into a gate-way under his house, and there I saw a piece of linen.

Q. Did you go behind the house ?

A. I did.

Q. Under which house is the gate-way ?

A. Under the house in which the explosion took place—
—I saw a piece of linen on fire.

Q. Did you look at the back of the house ?

A. I did.

Q. What was there remarkable ?

A. I saw the windows broke out.

Q. How many ?

A. Three of them.

Q. Did you see any fashes ?

A. There were no fashes in them at all.

Q. Did you see the prisoner there afterwards ?

A. Yes, in some time afterwards, he came out of the yard, belonging to the house, into the gate-way.

Q. Was the passage between the yard and the gate-way left open ?

A. No ;—immediately upon his coming out, he locked the door.

Q. Did you say any thing to him.

A. Yes ; I wanted him to let me in with him to see whether the fire was extinguished.

Q. Did he let you in ?

A. No, he refused to let me in—he said there was no occasion.

Q. Was there any thing particular in his appearance at that time ?

A. He seemed to be frightened, and a little alarmed—the cape of his coat and his hair was linged.

Q. Was any thing more said ?

A. I wanted him to take in some gentlemen who were there, but he refused to let any of them in.

Q. Did he say any thing ?

A. He told me he would satisfy me.

Q. (By

Q. (*By the Court.* What did he mean?

A. That the fire was out.)

Q. Did you see him afterwards in the course of the evening?

A. Yes, he came afterwards in the course of the evening into my house, and I brought him into my parlour, and he told me it was dyers who were trying experiments in the house.

Q. On which side of your house was the one in which the explosion took place?

A. On the south of mine.

Q. Then your house bounds his upon the north?

A. Yes.

Cross examined by Mr. MAC NALLY.

Q. You were a good deal frightened yourself when you heard this explosion?

A. A great deal.

Q. And you were out of the house?

A. No.

Q. You were not in the house when the explosion was?

A. No.

Q. And you were frightened for fear of being blown up?

A. I did not think it was powder in it.

Q. You do not know it was powder?

A. No.

Q. You were frightened?

A. Yes.

Q. And you would be more so if your hair was fringed?

A. Yes.

Q. Then there was nothing extraordinary in the man's appearance, seeming frightened, when his hair was frizzled?

A. There was something strange in his appearance, when he refused to let me in.

Q. You were not yourself as calm then, as you were upon other occasions?

A. No.

Q. He said there was no danger, when he locked the door?

A. He did.

Q. It might be prudent to keep people out?

A. It was reasonable.

Q. Upon such occasions, there is plunder sometimes by the mob?

A. I cannot say:

Q. Have you never heard of such a thing?

A. I have.

Q. You saw the prisoner in the evening?

A. Yes.

Q. He did not run away?

A. No.

Q. At what time did you see him?

A. Immediately after the explosion.

Q. Did you see any thing removed before he asked you to go in?

A. He did not ask me to go in at all.

Q. Why, what did he say?

A. He said there was no occasion to go in, but he would satisfy me, and he said it was silk dyers trying experiments.

Q. There was nothing blown out but the piece of linen and the splinter of fire?

A. No, but the sash.

Q. You saw nothing blown out?

A. Nothing but the fire and the linen.

Q. Do you know whether the sashes were burst out?

A. No:

Q. Were the sashes blown out from the frames?

A. I cannot say—they were blown out before I saw them.

Q. (*By the Court.* Had you known them before?

A. No.)

Q. Were the sashes out?

A. They were.

Q. Were they down in the yard?

A. No, I did not see them.

Q. Was the linen blown out?

A. I cannot say

Q. It was on fire?

A. It was

Q. What

Q. What kind of linen was it ?

A. Something like a piece of shirt;

Q. (*By the Jury.* Was the fire properly extinguished before the prisoner came out ?

A. I cannot say, for I did not go in : there was a great smoke.

Q. Was any engine necessary ?

A. No.

Q. Was there any smell ?

A. There was a smell of powder or sulphur.—There was a report it was coiners was in it, and that made me easy.)

EDWARD WILSON, *Esq.*

Examined by Mr. ATTORNEY GENERAL.

Q. Do you recollect the explosion in *Patrick-street* ?

A. I recollect to have heard of it.

Q. At what time ?

A. On *Sunday* morning the 17th of *July*.

Q. Did you go there ?

A. Hearing of the explosion, and that two men were miserably burnt by it, one of whom died since, and that the fire-engine keeper was prevented from acting, I went to the house to enquire.

Mr. MAC NALLY—I must object to any evidence of what passed upon this enquiry.

Witness. In consequence of what I heard, I brought a number of peace officers with me, on the evening of *Sunday* the 17th, to the house in *Patrick-street*, next door to *Mooney's*.

Q. (*By the Court.* Was there a gate-way there ?

A. There was, my Lord—part of the house goes over a gate-way.)

Q. Was it on the north or the south side of *Mooney's* ?

A. It was on the south side of *Mooney's*. When I came there, I found the house secured by a padlock without

without sile. I forced off the lock, and entered the house.

Q. Mention the most striking parts of the furniture which you saw?

A. I went up stairs to the first floor, and in the dining-room I found two chests; in the till of one of them there were fifty newly-cast musket balls; there was a book, the title of which was, "*Volney's Ruin of Empires*;" a number of carpenter's tools, and some powder—There was a pallet, or bed, where some person lay. In the back room, on the same floor, I found the fire-place was torn by some explosion; it was broke and scattered about, and near the fire-place there was a mill standing, with an iron roller, covered over with a black powder.

Q. (*By the Court.* Had it the appearance of having been employed in making powder?)

A. Yes, my Lord—I tasted the powder, and it was certainly gunpowder.)

In several parts of the house there were appearances of the explosion. The cieling was all black, particularly near the back part, where the windows were—they were blown out.

Q. (*By the Court.* How did the windows appear?)

A. They were out. I am not sure now, whether the frames were out, but all the sashes and glass were gone. The pier between the two windows was cracked, and I was almost afraid to stay in the house.

Q. (*By the Court.* Did the crack appear to be an old one?)

A. No, my Lord, it was a fresh crack, made by whatever caused the explosion.)

There was a large deal table covered over with a sort of white powder. and on removing some of it, I found the surface of the table burned into holes. In the lower part of the house I found between one and two hundred handles, which I took to be pike handles; they were rather larger than the handles of sweeping brushes.

Q. They were not so large as those which you saw in *Thomas-street*?

A. These

A. These were only three or four feet, for closer work; and there were some bayonets in the next house, which was a waste house, and which I was told belonged to —

The prisoner's counsel objected to the witness proceeding in this evidence.

MR. ATTORNEY GENERAL. Was there any communication between the two houses?

A. I came out of one door and went into the other.

Q. Where did you find the bayonets?

A. Hid in a chimney of the next house: I also found 100 rounds of ball cartridge.

Q. How many bayonets did you find?

A. Five, with wood in the sockets of them, as if cut off from some of these handles.

MR. CAMPBELL. My Lord, I must object to this evidence being given to affect the prisoner.

COURT. Let the witness state again how the two houses were situated with respect to each other.

MR. ATTORNEY GENERAL. My Lords, I had rather refrain from offering the evidence. The case will be sufficiently clear and intelligible without going out of the particular house.

Q. Did you find any thing more like gunpowder in the house, in which the explosion was?

A. I found some unfinished; it was in large and small lumps; it appeared to me to be gunpowder in an unfinished state; it was scattered about among the furniture.

Q. You were not there till the 17th of July?

A. No.

Q. Do you know what saltpetre is?

A. Yes.

Q. Did you find any there that day?

A. I found a quantity in a mason's hod at the ere of the house. There is a communication between some of the yards, and I am not sure, whether it was exactly in the ere of the prisoner's house or not.

Q. How did you go to it?

A. I went into a space at the ere of both houses; I believe it was through the adjoining house; I found in the prisoner's

prisoner's house a number of metal rings, as if for the purpose of fitting upon the handles.

Q. (*By the Court.* Did you try any of them?

A. No, but they were of the size of the handles.)

Q. Did you examine the whole of the house, No. 26, in *Patrick-street*?

A. I did, my Lord.

Q. Did you see any appearance of silk-dyers' work?

A. Not the smallest of any kind; there was no silk or dye stuff.

Not cross-examined.

WHEELER COULTMAN, *Esq.*

Examined---Gave the same testimony as upon the former trials.—Vide No. I. *Kearney's case*, page 48.

A writing desk was produced, which Mr. *Coulتمان* said he saw in the depôt.

Serjeant THOMAS RICE.

Examined---Gave same evidence as before.---Vide No. I. *Kearney's case*, page 53.

JOHN FLEMING.

Examined by Mr. ATTORNEY GENERAL.

Q. Did you ever see that desk? (*pointing to the same desk Mr. Coulتمان had identified.*)

A. Yes.

Q. Where did you see it?

A. In the store.

Q. Whereabouts is the store?

A. In *Mafs-lane*.

Q. (*By the Court.* The place called the depôt?

A. Yes.)

Q. Look at the prisoner, did you ever see him before?

A. I did.

Q. What is his name?

A. *Mac Intosh*.

Q. Do you recollect where you saw him?

A. I saw him in the store.

Q. Do

Q. Do you mean the same depôt where the little desk was?*

A. Yes.

Q. Did you see him occupied in any particular way?

A. I saw him working at different kinds of work.

Q. What trade is he of?

A. I heard him say he was a carpenter.

Q. What did he work at?

A. I saw him plaining them things they call pike handles.

Q. How long before the 23d of July?

A. A few days—not many.

Q. Do you recollect happening to see him that day?

A. I did—I saw him in the store all along that day.

Q. Did he do any thing that day?

A. He was working.

Q. Did you see him do any thing particular besides working at the pike handles?

A. I saw him at beams—I did not know what they were.

Q. What was he doing to them?

A. He was stuffing them with something?

Q. (*By the Court.* Were the beams hollow?)

A. Yes, they were.)

Q. Could you perceive what he was stuffing them with?

A. I suppose it was powder and something, I cannot well tell what it was.

Q. Was that in the depôt?

A. Yes.

Q. At what hour did the gentlemen leave the depôt?

A. After nine.

Q. (*By the Court.* Did you see the beams removed out?)

A. I did, some of them.

Q. Before nine o'clock?

A. Yes.

D

Q. Can

* The cross-examination by the prisoner's counsel having admitted that he was in the depôt, it was not thought necessary to give any of the contents of this desk in evidence.

Q. Can you say whether the prisoner, *Mac Intosh*, went out with the others?

A. He went out with the party.

Q. Had he any thing in his hand?

A. He had a pistol and a blunderbuss.

Q. Did you see afterwards what street he went into?

A. Into *Dirty-lane*, and from thence to *Thomas-street*.

Q. With the same party?

A. Yes.

Q. What was the first thing you observed particular in the prisoner's conduct, when the party went out?

A. The first thing I observed was a firing along the street.

Q. Did you see the prisoner take any part in that amusement?

A. No more than any other man.

Q. Was there any man killed?

A. I saw a trooper killed. The prisoner fired at him, but I do not know whether he hit him, or not.

Q. There were many shots fired at him, as he rode down the street?

A. There were.

Q. (*By the Court.* What became of the trooper?

A. He fell in the channel.)

Q. State what more happened?

A. There was a carriage stopped with two gentlemen and a lady in it, and I saw the prisoner at the side of the carriage.

Q. Was the prisoner present during the transaction?

A. He was.

Q. You need not mention any names, but state what passed?

A. I saw two men stabbing one of the gentlemen, who was upon the ground.

Q. Was that done by the same party which the prisoner accompanied with his pistol and blunderbuss.

A. It was.

Q. Could you perceive what became of the lady.

A. I cannot say—I saw her going off, but what became of her I cannot say?

Q. Did you see *Mac Intosh* that night after?

A. Yes.—He came over to the corner of *Meath-street*, where I was standing.

Q. Had

Q. Had you any conversation with him at the corner of *Meath-street*?

A. He asked us to go up the mountains, or the army would cut us off, as the party left us.

Q. What became of the officers?

A. I cannot say, after they left *Thomas-street*.

Q. Then your officers left you, and the prisoner advised you to make to the mountains, lest the army should cut you off?

A. Yes.

Q. Where did you reside for some time previous to this transaction?

A. At the Widow *Dillon's*, at the *White Bull*.

Q. In what situation were you there?

A. An hostler.

Q. How is the *dépôt* situated with respect to the *White Bull Inn*?

A. It just joins, and there was a door broke between *Dillon's* yard and the stores.

Q. Then it was not easy to carry on any matter there without your knowledge, as being the hostler?

A. I knew a good deal of it.

Q. When did they introduce you to the secret?

A. A good while ago, I cannot say how long.

Q. Was it some months?

A. Yes; two or three months before the 23d.

Q. As you did not go to the mountains, I suppose you thought it safe to go somewhere else?

A. I did; I went to *New-street* to some house there, which I never was in before, and remained till *Tuesday*, and then I went to *Thomas-street*, and from that house to the county of *Kildare*.

Q. You were arrested there?

A. I was.

Q. And in consequence of that you told every thing you knew about the business?

A. I did.

Q. Do you recollect the explosion which took place in *Patrick-street*?

A. Yes, Sir, I do.

Q. That was a week before the insurrection broke out?

D 2

A It

A. It was,

Q. Do you recollect having been applied to by any person for a bag?

A. I do—by Mr. *Palmer*, and *Quigley*, and Mr. *Emmet*.

Q. Did you ever see any of these persons in the dépôt?

A. I cannot say that I saw *Palmer* in the dépôt; but I saw all the others there.

Q. Was the prisoner with them?

A. Yes.

Q. What did they say they wanted the bag for?

A. To carry powder.

Q. From what place?

A. I suppose from *Patrick-street*.

Q. What did they say?

A. They said it was to get away the powder they brought out of *Patrick-street*.

Q. (*By the Court.* Was it on *Saturday* night, they told you that?

A. It was *Sunday* morning.)

Q. At what hour?

A. It was not eight o'clock.

Q. Did they say to what place they intended to carry the powder?

A. I knew it was to the stores.

Mr. WILSON,

Examined by the COURT.

Q. At what time did you go to the house in *Patrick-street* on *Sunday*.

A. In the evening. I went first between twelve and one and looked about the place; but finding the house locked, and not having any assistance at that time, I did not go in.

JOHN FLEMING,

Cross-examined by Mr. CAMPBELL.

Q. When did you commence the occupation of traitor or rebel?

A. It is a good while since I was sworn first.

Q. As

Q. As near as you can guess, tell me?

A. It is six or seven years ago since I was first sworn.

Q. How long is it since you were sworn in this last business?

A. I never was sworn in this last.

Q. Then what did you mean by saying, since you were sworn *first*?

A. I mean the first business of the *United Irishmen*.

Q. Was you ever sworn a second time to be a rebel?

A. No, I was not.

Q. At what time did you commence rebel, without being sworn, in the last business?

A. Three or four months before the 23d.

Q. Recollect now particularly, was it six months?

A. It was about *March* or *April* I got a knowledge of it—I cannot well tell the time.

Q. You saw what was doing in the depôt—you saw pikes making there?

A. I did.

Q. Did you not know they were intended for the perpetration of murder?

A. I knew they were for some bad design, no doubt of it.

Q. Did you not know they were for murder?

A. As I was told they were.

Q. Did you believe it?

A. As I was told it, I believed it.

Q. Did you give information of these pikes making?

A. No.

Q. In not doing so, did you act the part of an honest man, or of a savage?

A. I was told, I was acting an honest part.

Q. Did you conceive you were acting an honest part?

A. I did then.

Q. Do you conceive now, that it is not a bad thing to commit murder?

A. I think it very bad.

Q. Not altogether so bad, but that some things may be worse?

A. There cannot be any thing worse.

Q. At what time did you begin to think it a bad measure?

A. It is a good while.

Q. It

Q. It was since you were taken.

A. It was.

Q. How soon did you give information after you were taken?

A. It was a good while after I was taken, before I gave information.

Q. You saw a carriage stopped and men piked?

A. I did.

Q. After that you went with the party.

A. I did.

Q. And even that did not make you fly?

A. I endeavoured to make my escape, as well as the rest.

Q. (*By the Court.* From whom?)

A. From the army.)

Q. Did you not continue with the party after the murders were committed?

A. I continued with them till they went off, and I went to *New-street*.

Q. Did you continue to be of the same opinion, as when you first became a rebel?

A. I considered it very bad.

Q. Then why did you stay with them?

A. I considered to make my escape along with the body belonging to me.

Q. I ask you, upon your oath, did you know, at the time the man was piked at the carriage, who he was?

A. No, I did not.

Q. Did you hear at the time?

A. No.

Q. Did you hear since?

A. I heard it was Lord KILWARDEN.

Q. Do you not believe he was?

A. I could not believe it at the time.

Q. Did you not hear that Lord KILWARDEN was piked in his carriage that night?

A. I saw a man piked in a carriage?

Q. Do you not believe he was Lord KILWARDEN?

A. I did not know him at the time.

Q. Were you examined before upon this subject?

A. I was.

Q. Did

Q. Did you give the same evidence before as you do now?

A. I swore to every thing that was true.

Q. Did you tell any thing relative to the murder of Lord KILWARDEN?

A. I do not think I did.

Q. And why did you not tell the truth?

A. I was not asked about it.

Q. Did you ever hear that any person was forced into the ranks of the rebels that night?

A. I did not hear it.

Q. Do you believe it?

A. I cannot believe any thing but what I see.

Q. Do you profess any religious doctrine? Do you believe in God?

A. I do.

Q. Did you ever see him?

A. No; but such a thing as you asked me, is different.

Q. Do you not believe there were parties placed in the depôt upon some of the persons who were brought in there?

A. I was told there were eight men.

Q. Do you not believe it?

A. I was told they were in it.

Q. Have you any reason to disbelieve it?

A. There were parties placed to keep it from being taken.

Q. Were there any parties to keep people there?

A. There were many kept there, until the evening came.

Q. Were not many kept, whose principles were not known?

A. I suppose so.

Q. Were you detained?

A. I was always permitted to go in, or out.

Q. Were not you the person who brought *Mac Intosh* into the depôt?

A. No.

Q. Who brought him in?

A. I cannot say; for I never saw him, till I saw him there?

Q. (By

Q. (*By the Court.* Upon what day before the 23d. did you see him there?

A. I think it was *Tuesday*, and he went only twice to see his wife.)

Q. Were not you the person who accompanied him as a sentry?

A. No; I was a messenger sent for him. The woman came and asked for *Mac Intosh*—he answered and came out, and was in the parlour for some time.

Q. Was there any sentinel upon him in the parlour?

A. O, no such thing! they had too great a regard for him to have a sentry over him.

Q. (*By the Jury.* Could he have gone off if he chose to escape?

A. He could, for there was no one to hinder him.)

Q. (*By the Court.* Did you ever know him leave the depot more than that once?

A. He did another time.)

Q. Where did he go to?

A. Into *Dillon's*, with a great coat upon him, disguised.

Q. Was there any watch upon him?

A. There was not.

PATRICK FINERTY,

Examined by Mr. MAYNE.

Q. Do you know the place called the store or depôt in *Mais-Lane*?

A. I do.

Q. Were you ever in that store?

A. I was.

Q. Did you ever see any carpenter's work going on there?

A. I did.

Q. What kind of work was going on—was it repairing the place?

A. No; I saw several things.

Q. Did you ever see pike-handles made?

A. I did, sir.

Q. At

Q. At the depôt?

A. Yes.

Q. Were you there shortly before the 23d. of July?

A. I was there in the course of the week preceding it.

Q. Did you see any of these works going on at that time?

A. I did.

Q. Look at the prisoner?

A. I see him.

Q. Do you know him?

A. I do.

Q. Did you see him before?

A. I did.

Q. When?

A. I saw him in many places in *Dublin*, and in the depôt twice.

Q. Did you know him before?

A. I did.

Q. What trade is he of?

A. A carpenter—that was what led me to know him.

Q. You are a carpenter also?

A. Yes.

Q. The twice you saw him there, was it near the 23d?

A. Some time in the week before.

Q. Did you see him do any thing?

A. No; only standing in the place.

Q. Were you there constantly?

A. No.

Q. About what time did you leave the depôt last?

A. About six in the evening.

Q. Of what day?

A. *Saturday*.

Q. The 23d?

A. Yes.

Q. Were there many in the depôt that day?

A. There were.

Q. In different parts of the store?

A. Yes.

Q. Perhaps you did not see them all?

A. No, sir.

Q. Was *Mac Intosh* there as one belonging to the place, or as a prisoner?

E

A. He

A. He did not seem to me to be a prisoner.

Q. Do you recollect where you saw him on *Saturday* the 23d.?

A. No.

Cross-examined by

Mr. MACNALLY.

Q. You say, he did not seem to be a prisoner?

A. No.

Q. You were not a prisoner yourself?

A. No.

Q. He might be there against his will without your knowledge?

A. He might.

PATRICK FARRELL,

Examined by Mr. TOWNSEND.

Q. Do you remember the insurrection of the 23d. of *July*?

A. I do, sir.

Q. Do you remember the depôt in *Mass-lane*?

A. I do.

Q. Were you ever there?

A. I was.

Q. When were you there first?

A. On *Friday* night.

Q. Before the insurrection?

A. Yes.

Q. At what hour?

A. Between nine and ten, as near as I can guess.

Q. How came you to be there?

A. I was passing by between nine and ten, and I stopped there, hearing some noise in the place;—it having been a waste place, I stopped to listen a couple of minutes, and a door opened, and a man caught me by the breast, and pulled me in and asked me, what I was doing there?

Q. How long did they keep you?

A. Until the next night.

Q. At what time?

A. Between nine and ten, as I can guess.

Q. How

Q. How did you get out?

A. When the door was opened to let out a broad piece of timber, I got out.

Q. Look at the prisoner—do you see him?

A. I do.

Q. Did you see him there?

A. I did.

Q. Did you see him do any thing there?

A. He was working at the large beams of timber?

Q. What was he doing to them?

A. He was loading them along with the others.

Q. What do you mean by loading them?

A. Putting in gun-powder, and other things.

Q. Was that in the evening?

A. It was in the early part of the day from twelve till evening.

Q. Did he seem very busy at the time?

A. He was very busy along with the rest.

Q. How was he dressed?

A. In his shirt and waistcoat with sleeves.

Q. He had no coat?

A. He might—but at the time I saw him he had not.

Q. Did he work hard?

A. He was working hard.

Cross-examined by

Mr. MAC NALLY.

Q. What business are you?

A. A steward.

Q. To whom?

A. To Mr. Ormsby in Thomas-street.

Q. What work did you do?

A. Whatever they made me.

Q. If you were a carpenter, you would have worked at the beams?

A. I would.

Q. And, as an honest man, you would have worked at them?

A. I would—it was against my will.

Q. You were forced to handle gun-powder?

A. They made me put the fuzes into the small hand-grenades.

Q. You were forced to do it?

A. I was there and they bid me, so I did it.

Q. If you refused, you would be put to death?

A. It so appeared at the first commencement.

Q. Do you not believe, that carpenters were necessary men to carry on the works in the depôt, to make those machines and beams?

A. Certainly they were.

Q. Why then carpenters would be an acquisition, if they could get hold of them?

A. I do not know.

Q. You saw this man working as a carpenter?

A. No.

Q. Did you not say he was a carpenter?

A. No.

Q. You said, he was working at the beams?

A. He was loading them.

Q. Would he not have been killed, if he refused?

A. I cannot say.

Q. How many days did you stay there?

A. Twenty-four hours.

Q. How did you get out?

A. When one of the beams was going out.

Q. Did you go with the party?

A. No, I did not.

Q. If a blunderbuss was put into your hand by them, would you not take it?

A. I would—but I would not go with them—I would escape.

Q. How many were in the place?

A. I cannot tell, because I did not reckon them; there were so many coming in and out, and about the place?

Q. (*By the Court.*—What did you do when you escaped?)

A. I got into a waste place and remained there all night, and next day I told my master what had happened to me.)

ABRAHAM COATES, *Esq.*

Examined by Mr. ATTORNEY GENERAL.

Q. Where do you reside?

A. In the town of *Arklow*.

Q. You

Q. You are a magistrate of the county of *Wicklow*?

A. I am.

Q. Look at the prisoner, and say whether you saw him before?

A. I recollect perfectly well to have seen him before.

Q. Mention the circumstance that led to your seeing him?

A. After the insurrection in *Dublin*, I had a suspicion that persons concerned in it would escape through the country, and I was particularly watchful, and I saw this man passing through the town of *Arklow*—I ran quickly after him, and I beckoned to one or two other persons to follow me—I stopped him, and brought him into a guard-house.

Q. (*By the Court.* Did he run?

A. No, my Lord, he walked smartly.)

Q. What passed?

A. On enquiring what his name was, he told me, "*James Magrath*,"—either *James* or *John*, I am not quite certain—but I am perfectly sure he said "*Magrath*."

Q. What further passed between you?

A. There was another person with him who called himself *William Bryan*—they appeared very suspicious persons.

Q. What further account did the prisoner give of himself?

A. Afterwards, in a private examination, (I examined them separately) the prisoner told me, he was a mill-wright, and was on his way to *Waterford*—I asked him had he been in *Dublin*—he told me, he was not in *Dublin* for three weeks previous to the 23d.—He also told me, he had been working at Mr. *Jones's* of *Killineecarrig*, in the county of *Wicklow*, as a mill-wright.

Q. Do you recollect how soon after the 23d. of *July* this passed?

A. I believe it was on the 26th. but it was soon after.

Q. You are sure it was within the week?

A. I am, I would recollect the circumstances better; but I put them on paper, and transmitted it to *Dublin*.

Extracts from the Proclamation were read, as before.—
Vide No. I. *Kearney's* case, page 54.

Case closed on behalf of the Crown.

Mr.

Mr. MAC NALLY.

My Lords, and Gentlemen of the Jury,

I am counsel, with my friend Mr. CAMPBELL, in this case, for the prisoner at the bar; and it is my duty to state to you, Gentlemen, from the instructions which I have received, the nature of the defence which he calls upon me to impress upon your minds, for the purpose of his acquittal. In discharging that duty, I should think myself acting with disrespect to the Court; with a dereliction of that confidence which I have, Gentlemen, in your good understandings and your hearts, should I attempt to offer any thing to you, that would look like an intention to impose upon you.

Gentlemen, however desperate the case of my client may have appeared to you, from the statement upon the part of the Crown, and the evidence already produced, I am entitled to tell you this, that he has a right to your presumption of his innocence, until you hear the case closed. I make that observation, because the ATTORNEY GENERAL stated to you, that it was your duty to attend to the evidence upon the part of the Crown, to establish the guilt of the prisoner upon that evidence. I deny the position. It is contrary to the tendency of an acknowledged legal rule, that the presumption of innocence in favour of a prisoner is his right until the case be closed. And I say it is your duty, not to attend to the evidence for the Crown in any case partially and abstractedly, but to the evidence upon the whole of the case; and if there be an inclination to one side or the other, that inclination whether from presumption, or *inference*, ought to be in favour of the prisoner. Grand Juries, indeed, are only to hear, and of course only to attend to *ex parte* evidence—but Petty Juries are to compare, to weigh, and to decide upon the examination of the facts and the credit of the witnesses on both sides. They are to do this, because it is so strong an established principle of the law of this country, that Justice should be administered in mercy, that the King when he is called to the Throne, takes an oath in which he recognizes that principle, binding himself and all those acting under him, to a merciful administration of the penal laws. I do know, because I feel how difficult it is for human nature to divest
itself

itself of prejudice. I have felt prejudice during these trials, burning my heart with sorrow, because I heard evidence given by wretches upon the table, of the murder of a nobleman, whose character I shall not attempt to define. We must all remember it, but no man will be able to draw it with the pencil of Justice. He deserves more than any man can express; and I trust he is now enjoying that happiness to which good men are entitled. He forgave his murderers, and in his dying moments bequeathed them a trial according to law. But now removed from this earthly coil divested of human feelings, his spirit perhaps looks down, even on this court, and viewing that man who appeared as a witness on the table, accuses him of the foul deed of murder, and in the language of the Scripture, cries out, "O Earth, cover not thou my blood!"

Gentlemen, this reflection draws our attention to the two material witnesses who have appeared upon the table. I will say a little as to the facts which they have sworn. I admit many of the facts to be true, because they must damn the credit of their testimony. I impeach these witnesses as men, who ought not to have credit, whose testimony you should expunge from your memory, and dismiss them marked as persons not deserving your attention.—How do they appear—no wonder they spoke with palsied tongues and quivering lips—plunged in blood, and in iniquity as they are, their oaths ought to have no effect.

If you throw their testimony out of the case, see how it stands. It is admitted, that there were persons forced into that laboratory, or depôt. It is admitted by an unimpeachable witness, that if a man did not work according to the direction of the officers in that magazine, death would have been the consequence. It appears, that the prisoner was there, and that must be admitted: but the defence is this, and the inference lies with you: Was he there by compulsion, or not?—The law says, that threats, or compulsion alone will not be a justification for a man's acting with rebels; he must be in danger of life or limb; and he must shew he took the first opportunity to escape—this is the strict letter of the case. You see what the situation of *Farrell* was; he worked in the depôt against his will, under the impression of such fear, as he swears, that he

he was first brought in under dread of death, and that impression continued upon his mind during the whole time he was there. Gentlemen, so it might have been with the prisoner.

Gentlemen, there are two points only in this case worthy of your consideration: First, the prisoner was proprietor of the house in *Patrick-street*, where an explosion took place. That fact, if it stood by itself, could not affect him, unless it were an overt act in the indictment, and it must appear, that he kept the house for a treasonable purpose. It appears that there was an explosion; that the windows were burst out; some scraps of linen were found in the yard, and some fragments were found in the house: but the witness has not shewn that the explosion was by gunpowder, or that the matter he found was a composition of gunpowder; nay, so far from its being powder, he says, he found it in lumps. It requires little knowledge of chemistry to know this, that explosion may proceed from many other materials besides gunpowder. Dr. Hutchinson, when lecturer in chemistry in Trinity-College, in trying an experiment upon the transmutation of colours, brought the whole laboratory about the heads of the students, by accidentally touching with a hot iron some material that lay on a table. The several circumstances which have here been given in evidence, are in favour of the prisoner, because you have heard what his declaration was: He said there was a preparation making for dyers.—Suppose then, that he became an object to the persons, who had possession of the depot at the end of *Thomas-street*. They heard of the explosion as all the town did; they got hold of the prisoner as an useful man, and they kept him to work, as they did others, under terror of his losing his life; he worked for them by compulsion: There is evidence that he worked, but there is no evidence of a treasonable intent.

But the magistrate, who arrested him, said he had guilt in his countenance. What an excellent physiognomist is his worship; a disciple of *Lavater's* no doubt; and studies his own countenance I presume daily in a mirror to avoid appearing with a convicting countenance. His rule of evidence is something like that laid down by *Little John* in the opera of *Robin Hood*—"I have four reasons for hanging you," says *Little John* to the Friar, "and one

one is, you have a damned hanging look." I believe Gentlemen, you will not pay much attention to such evidence; to convict men by their looks would be concluding upon a species of *prima facie* evidence that might endanger even the worshipful magistrate who tendered it, as well as many other very honest and simple men.

Gentlemen, I will call witnesses to shew the general character of the man. It is impossible to call any witness out of the depôt; every man who was there considers himself as having a halter about his neck, and if he came without an insurance of his life, from those who have authority to screen guilt, he would be attacked by *Fleming* and the other witness, who, as I said, have admitted themselves guilty of murder.

MR. ATTORNEY GENERAL. I did not wish to interrupt Mr. MAC NALLY in his statement, but I am obliged to do so, as to a matter of fact. The witness did not state himself to be a murderer.

MR. MAC NALLY. I thank the ATTORNEY GENERAL for the interruption, because I shall shew he was a murderer; he was present, aiding and abetting in the perpetration of a murder, and he has confessed it in open court—and it is my opinion, as a lawyer, that every man so present, aiding and abetting, even by a shout to encourage, if there were 10,000, is guilty of murder—the blow of one is the blow of all.

MR. ATTORNEY GENERAL. State it so, and I will not interrupt you.

MR. MAC NALLY. So I do, and I call him a murderer on his own confession. Gentlemen, I will not detain you or the Court longer, upon this point. I will call witnesses to character. I will not dilate upon the doctrine of doubt, which has been repeatedly held out to the Juries of *Dublin*, who are now become as accurate judges of the evidence in cases of treason, as the Bar; and therefore, under the direction of the Court, I will only say, that if you doubt you ought to acquit. You will take into your consideration, whether you ought not to ex-

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punge the evidence of the two accomplices. If you do, you must acquit; but if you should not, their evidence cannot be free from doubt, and therefore you would in that case also acquit.

JAMES HUNTER.

Examined by Mr. CAMPBELL.

Q. Do you know the prisoner?

A. I do, five or six years.

Q. What has been his general character during that time?

A. I considered him a hard working industrious man.

Q. What has been his character as to peaceableness of disposition?

A. During the time he worked for me, I found him a quiet and honest man.

Q. You are a yeoman?

A. I am Serjeant Major in the *Liberty Rangers*.

Cross-examined by Mr. ATTORNEY GENERAL.

Q. Have you any other connection with the prisoner than working as a carpenter for you?

A. No more.

Q. How long did he work with you?

A. Different times, at jobs.

Q. And you paid him for his labour?

A. Yes.

Q. Do you not believe that many decent hard-working people were in the business of the rebellion.

A. I cannot say—I was with my regiment that night.

Q. Many carpenters worked hard that night?

A. I heard so.

Q. And you believe it?

A. Yes.

WILLIAM HUNTER.

Examined by Mr. MAC NALLY.

Q. You are a Lieutenant in the *Liberty Rangers*?

A. Yes.

Q. D.

Q. Do you know the prisoner ?

A. Yes.

Q. How long ?

A. Five or six years.

Q. What was his character as to loyalty until the present charge ?

A. I do not know as to that.

Q. Did you hear it impeached ?

A. No.

Q. He was a quiet and honest man ?

A. Yes.

Cross-examined by Mr. MAYNE.

Q. You know nothing of his loyalty ?

A. No; nor have I employed him since *December*.

Q. He worked hard ?

A. Yes.

Q. Did you know him by the name of *Magrath* ?

A. No; they generally called him *Mac*. He told me he was a *Scotchman*.

THOMAS MARTIN.

Examined by Mr. CAMPBELL.

Q. Do you know the prisoner ?

A. I do, these four years.

Q. What has been his general conduct with regard to peaceableness of demeanor and honesty ?

A. He was a peaceable, honest man—he worked for me as a carpenter, and I paid him.

Cross examined by Mr. TOWNSEND.

Q. Where do you live ?

A. In *Patrick-street*.

Q. How far from the prisoner's house ?

A. A good way—the corner of *Bull-alley*.

Q. You know nothing of the prisoner but his working for you ?

A. No.

MICHAEL SMITH.

Examined by Mr. MAC NALLY.

Q. Do you know the prisoner ?

A. I do, these two years.

F 2

Q. What

Q. What was his general character during that time, taking in his loyalty, his disposition, and every quality?

A. His general character was that of an honest man.

Q. Did you ever hear it impeached for disloyalty?

A. No.

Cross-examined by Mr. ATTORNEY GENERAL.

Q. Did you employ him as a carpenter?

A. Yes.

Q. And he employed you as a spirit-feller?

A. No, only when business led him there.

Q. You never heard his character as to loyalty spoken of?

A. No.

Q. You know nothing of him, but his doing business for you?

A. No.

WILLOUGHBY FYFE.

Examined by Mr. CAMPBELL.

Q. You are a yeoman?

A. Yes.

Q. Do you know the prisoner?

A. Yes—eight years.

Q. During that time, what was his general character and conduct as to peaceable demeanor and honesty?

A. He was an honest faithful man, peaceable and industrious. I never heard any thing against him till the present charge; he wrought for me some time, but not latterly, these two years.

Q. Had you frequent opportunities of knowing him?

A. No.

Cross examined by Mr. ATTORNEY GENERAL.

Q. You knew nothing of him these two last years?

A. No.

Q. When did he come to this country?

A. He came here, employed by Mr. Stephens, who built Sarah Bridge, and he lived with Mr. Stephens at Island Bridge, and while he was there he worked as a diligent man.—When the bridge was done, many of the
men

men went away. This man staid as a working carpenter, and I employed him occasionally to make packing boxes till 1801, when we had a dispute about a box, and I did not employ him since.

Q. *By a Juror.* Had you an opportunity of knowing his character of late ?

A. No.

Case closed on behalf of the prisoner.

The evidence was not observed upon by counsel on either side.

MR. BARON DALY

Proceeded to sum up the evidence to the Jury. He stated the indictment against the prisoner, and the overt acts which were contained in it. With regard to the insurrection, the Learned Judge said, it would not be necessary to detail any part of the evidence, because that fact was not disputed by any thing which was offered on behalf of the prisoner, and therefore the Jury might fairly take that for granted. But with regard to the evidence which applied to the prisoner, it was necessary to detail it, as requiring the particular attention of the Jury.

The learned Judge then read the evidence from his notes, and made occasional remarks. He said, the cross-examination of *Fleming* went to impeach his veracity, and certainly, the acknowledgment of the man himself strongly impeached him. But there was one fact stated by him, which did not require corroboration, that was, that the prisoner was in the Depôt, for by his defence, he admitted he was there, and therefore let *Fleming* be the greatest villain upon earth, that fact told by him is not disputed. The witness, *Finerty*, was subject to the same objections as *Fleming*, but *Farrell* was an unimpeached witness, giving information immediately after his escape from the place. The conduct of the prisoner was different ; and was extraordinary, if his defence of being under compulsion was true ; for instead of giving information, or making his escape, when he got out of the place, he goes off to *Arklow*, and denies his name, when inter-

rogate

terrogated by the magistrate. That was not the natural part he would have taken, if he had been under compulsion.

The only evidence offered by the prisoner was evidence of character, shewing that he was an honest, hard working man ; but no witness was produced with regard to his loyalty, and all that was said respecting it was, that the witnesses never heard his loyalty impeached. There was ~~no~~ doubt that many honest and industrious men have been seduced into rebellion ; at the same time, it was less likely, that a quiet and peaceable man should be so seduced, than a man of idle and dishonest habits.

But evidence of character ought not to have weight with the Jury, except they had a reasonable doubt upon the evidence for the Crown. In such a case it ought to have great weight, and if the Jury had any doubt, even evidence of an *honest* character, though not strictly to the point in issue, ought to have its weight. But if there was no doubt, it could have no weight. The Jury would consider the whole of the evidence, and give such verdict as was consistent with their judgment of it.

The Jury, without retiring, pronounced a verdict—*Guilty*.

MR. ATTORNEY GENERAL prayed judgment against the prisoner.

He was accordingly called up, and his indictment was read, and he was asked in the usual way, What he had to say, why judgment of death should not be pronounced ?

He made no answer.

MR. BARON DALY addressed the prisoner, who was convicted upon the clearest evidence of the crime of High Treason. Indeed his own demeanor at his trial, and the line of defence which he authorised his counsel to go into, cleared up all doubt, if there had been any. His defence was founded upon the plea of *force*, which his whole conduct falsified. A man forced into a business of that kind, would never have fled, after the force was removed—he
would

would not assume a fictitious name—he would never have told a series of untruths, as the prisoner did upon his arrest. It was obvious to every person, that the prisoner was one of those, who were in the greatest confidence with the conspirators. He was employed to take a house for the purpose of carrying on a manufacture of gunpowder. It would appear, from a book found in his house, that he entered into this business from speculative notions; it appeared that he was a literate man, and the reading he chose to resort to was of that species, which would corrupt any man, who yielded to it, but was most peculiarly fitted to corrupt men of inferior understandings, who had just knowledge enough to imbibe false principles, but not sufficient firmness of intellect to guard against them. The prisoner chose to read “*Volney’s Ruin of Empires.*” It was a heavy misfortune, that his reading was not otherwise directed. If he had read his Bible, it would have guarded him against the crime for which he was to suffer. The Learned Judge expressed his most earnest hope, that the line of reading, into which the prisoner had fallen, had not entirely disengaged him; but that some vestige of religion remained. It behoved him to resort to it; it behoved him to apply to that God, whom he had so grievously offended, and to make use of the short time left to him, in order to make his peace. He could not do so more effectually, than by disclosing to his country, the schemes he had entered into. From what appeared, he must be an adept in them, and he could not make a more acceptable atonement to his Creator than by disclosing all he knew. Nothing remained for the Court, but to pronounce the sentence of the law.

The sentence was pronounced in the usual form.

The prisoner was executed the following day, in *Patrick-street*.

Counsel

Counsel for the Crown.

Mr. Attorney General,
Mr. Mayne,
Mr. Townsend,
Mr. Ridgeway,

Crown Solicitors.

T. and W. Kemmis.

Counsel for the Prisoner.

Mr. Mac Nally,
Mr. Campbell.

Agent.

M. L. Mac Nally,

R E P O R T

OF THE

PROCEEDINGS

IN

Cases of High Treason.

SPECIAL COMMISSION.

Monday, 3d October, 1803.

Judges present :—Lord NORBURY, Mr. Baron GEORGE,
and Mr. Baron DALY.

THOMAS KEENAN, having had counsel and
agent assigned upon a former day, was now put to the
bar and arraigned upon the following indictment :—

County of Dublin, } THE Jurors for our Lord the
to wit. } King, upon their oath present, that
Thomas Keenan, late of Thomas-street, in the city and
county of the city of Dublin, a subject of our said Lord
the now King, not having the fear of God in his heart,
nor weighing the duty of his allegiance, but being moved
and seduced by the instigation of the Devil, as a false
traitor against our said Lord the now King, his supreme,

B

true,

true, lawful and undoubted Lord, the cordial love and true and due obedience, which every true and dutiful subject of our said Sovereign Lord the King, towards him our said Lord the King, should bear, wholly withdrawing, and contriving and intending the peace and common tranquillity of this Kingdom to disquiet, molest and disturb, and the Government and Constitution of this realm to change, subvert and alter, and our said Lord the King from the Royal state, title, honor, power, Imperial crown and Government of this realm to depose, and deprive, and our said Lord the present King, to death and final destruction to bring and put, he the said *Thomas Keenan*, on the twenty-third day of *July*, in the forty-third year of the reign of our said Lord the King, at *Thomas-street* aforesaid, in the city, and county of the city of *Dublin* aforesaid, with force and arms, falsely, wickedly and traitorously, did compass, imagine and intend, our said Lord the King, then and there, his supreme, true and lawful Lord, of and from the Royal state, crown, title, power and government of this realm to depose and wholly deprive, and our said Lord the King to kill and bring and put to death; and that to fulfil, perfect and bring to effect his most evil and wicked treason, and treasonable imaginations, and compassings aforesaid, he the said *Thomas Keenan*, as such false traitor as aforesaid, on the said twenty-third day of *July* in the said forty-third year of the reign of our said Lord the King, at *Thomas-street* aforesaid, in the city, and county of the city of *Dublin* aforesaid, with force and arms, falsely, maliciously, and traitorously did conspire, confederate and agree to and with divers other false traitors whose names are to the Jurors aforesaid unknown, to raise, levy and make a public and cruel insurrection, rebellion and war, against our said Sovereign Lord the King within this Kingdom.

And afterwards, to wit, on the said twenty-third day of *July*, in the said forty-third year of the reign of our said Lord the King, with force and arms, at *Thomas-street* aforesaid, in the city, and county of the city of *Dublin* aforesaid, he the said *Thomas Keenan*, as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes aforesaid, falsely, wickedly and traitorously, did arm himself with, and did bear and carry a certain weapon called a pike, with intent to associate himself with

with divers other false traitors, armed with guns, swords, and pikes, whose names are to the said Jurors unknown, for the purpose of raising, levying, and making insurrection, rebellion, and war against our said Lord the King, and of committing and perpetrating a cruel slaughter of, and amongst the faithful subjects of our said Lord the King within this kingdom.

And that afterwards, to wit, on the said twenty-third day of *July*, in the said forty-third year of the reign of our said Lord the King, with force and arms, at *Thomas-street* aforesaid, in the city and county of the city of *Dublin* aforesaid, the said *Thomas Keenan*, as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes aforesaid, with a great multitude of persons whose names are to the said Jurors unknown, to wit, to the number of one hundred persons and upwards, armed and arrayed in a warlike manner, to wit, with guns, swords, and pikes, being then and there unlawfully and traitorously assembled and gathered together against our said Lord the King, falsely and wickedly did prepare, levy, ordain, and make public war against our said Lord the King, against the duty of the allegiance of him, the said *Thomas Keenan*, against the peace of our said Lord the King, his crown and dignity, and contrary to the form of the statute in such case made and provided.

And the Jurors of our said Lord the King upon their oath do further present, that the said *Thomas Keenan*, being a subject of our said Lord the now King, and not having the fear of God in his heart, nor weighing the duty of his allegiance, but being moved and seduced by the instigation of the Devil, and entirely withdrawing the love and true and due obedience which every subject of our said Lord the King, should and of right ought to bear towards our said Sovereign Lord the King, and wickedly devising, and intending the peace and public tranquillity of this kingdom to molest and disturb, on the twenty-third day of *July*, in the forty-third year of the reign of our said Lord the King, with force and arms, at *Thomas-street* aforesaid, in the city and county of the city of *Dublin* aforesaid, unlawfully, maliciously, and traitorously did compass, imagine, and intend, to raise and levy war, insurrection, and rebellion against our said Lord the King within this kingdom. And in order to fulfil, and bring to effect the said traitorous compassing, imaginations and intentions last mentioned,

Heard, of him the said *Thomas Keenan*.—He the said *Thomas Keenan*, afterwards, to wit, on the said twenty-third day of *July*, in the forty-third year of the reign of our said Lord the King, with force and arms at *Thomas-street*, in the city and county of the city of *Dublin* aforesaid, with a great multitude of persons whose names are to the said Jurors unknown, to a great number, to wit, to the number of one hundred persons and upwards, armed and arrayed in a warlike manner, to wit, with guns, swords, and pikes, being then and there unlawfully, maliciously and traitorously assembled and gathered together, against our said Lord the now King, most wickedly, maliciously and traitorously did ordain, prepare, levy, and make public war against our said Lord the King, his supreme and undoubted Lord, contrary to the duty of the allegiance of him the said *Thomas Keenan*, against the peace of our said Lord the King, his crown and dignity, and contrary to the form of the statute in such case made and provided,

The prisoner pleaded *Not Guilty*.

And being asked whether he was ready for trial, answered in the affirmative.

The following jury was sworn, after twelve were set by on behalf of the crown, one challenged by the Prisoner, for want of freehold, and thirteen challenged peremptorily by him.

Thomas Williams,	Christopher Humphries,
James Donovan,	William Jones,
Stephen Parker,	John Mason,
James West,	Robert Beere,
Jacob West,	George Paine,
Charles A. Kelly,	Martin Keene.

The prisoner was given in charge,

Mr. TOWNSEND opened the indictment.

Mr. ATTORNEY GENERAL,

My Lords and Gentlemen of the Jury,

Upon the present occasion we shall have to trouble you with a very short case; you have heard the prisoner charged with High Treason, and, Gentlemen, it will be your duty to find him guilty of that crime under the indictment which we have preferred against him, if it shall be satisfactorily

factorily to your minds, upon the evidence which will be produced, that he embarked in a conspiracy to collect arms and ammunition, in order to change the laws and constitution of this country by force. It will also be your duty, Gentlemen, to find him guilty, if it shall appear to you, that he afterwards made use of arms for the purpose of levying war against the King; but if either the one case or the other shall be substantiated, his guilt will be complete; because in the eye of the law, a conspiracy for this atrocious purpose, manifested by the preparation of arms to be used in the promotion of the design, is a distinct and substantive overt-act of the treason; and it must appear still more plain to the capacity of every man, that if the conspirator goes further, and actually uses the arms for the atrocious purpose with which they were prepared, that he is guilty of the crime which we have imputed to the prisoner.

Gentlemen, I think we shall be able to satisfy your minds, that in consequence of the explosion which took place in *Patrick-street*, in the house of *Mac Intosh*, upon the 16th of *July*, exactly one week previous to the insurrection, by which that establishment was broken up, the proprietor of this house together with those persons who had theretofore worked with him, repaired to the neighbouring depot in *Moss-lane* in which the same preparations were going forward.

Accordingly, about this time, the evidence will satisfy you, that the prisoner, in company with *Mac Intosh*, the proprietor of the house in *Patrick-street*, repaired to that depot in *Moss-lane*, and there carried on the same species of work, which they had been accustomed to exercise in their former habitation.—The prisoner was active in the preparation of handles for pikes; being himself a carpenter, he was particularly conversant in that sort of work. It will appear also, that he was employed with *Mac Intosh*, in filling beams and other implements for the purpose of explosion.—These are overt-acts of the first species of treason, going to demonstrate that the prisoner embarked in a conspiracy to alter our laws and constitution by force. It will remain to be proved, that he acted upon that design, and took such part upon the evening of the 23d of *July*, as his previous conduct would induce you to suspect.

Accordingly we follow him into *Thomas-street*, on that lamentable night, and find him active in assisting the insurgents

gents, and taking part in those inhuman murders which marked the commencement of this sanguinary rebellion—Shortly after these atrocities, he fled with some of his companions to the corner of *Meath-street*, to consult upon their future operations. The generals, who marched out in the vain expectation of heading an army, finding that the horrid miscreants under their command, could not undertake any enterprize greater than individual murder, fled in dismay to the neighbouring mountains, a few of the party unappalled by the crimes which had been committed, looked about for their officers and desired to be led on, the prisoner was one of that party, lamented the absence of his commander, talked of some of the barbarous transactions which had just taken place, and spoke of them as necessary for the accomplishment of their object. When we produce this evidence, if it shall appear to you to deserve credit, you will cheerfully give that verdict which the circumstances of the case so loudly demand. At the same time the atrociousness of the crime ought not to be taken into consideration against the prisoner, when you are making up your minds upon the credit which may be due to the witnesses: on the contrary, I feel my own indignation so much roused by the peculiar enormity of the fact, that I cannot but recommend you to pause before you finally determine; you will therefore strip the accusation of all its horrors, and consider only the evidence which will be produced to substantiate the charge: The witnesses to be brought before you undoubtedly were accomplices in the crime, and here give me leave to say, that I am aware that those who confess themselves guilty of embarking in such transactions, detract from the credit which you would give to unimpeached men. But notwithstanding this observation, one such witness connected with circumstances tending to shew the probability of his story, and its consistency with truth, is sufficient for conviction; and if in addition to one witness of that description, and the probability of the case, a second comes forward substantially to corroborate the former; and if their stories are consistent one with another, in all parts natural, and probable, the result must be a conviction on your understandings, that their testimony is true.

Gentlemen, I know, that persons in the situation of informers, more especially, when there is no other way of getting rid of their evidence, naturally call for warm and strong observations from the counsel concerned for the prisoner,

prisoner, and whose duty it is to defend him to the utmost of their power. So far as these observations tend to shew that such witnesses do not deserve as much credit as others, and the propriety of supporting their testimony by corroborative circumstances, I readily acquiesce in them. But when the counsel descend to idle declamation and irrelative abuse, when they call upon you to consider such witnesses as the most atrocious wretches, and you are desired to discharge from your minds every thing which they uttered, it is going somewhat too far; the argument loses all its weight, and instead of assisting the vindication of innocence, it tends to the perversion and suppression of truth: so far as it endeavours to depreciate their credit it is just, but if it goes further, and alleges that the witnesses are not in any respect to be attended to, it is wild and unimpressive. Where shall we look for witnesses to discover the dark and hideous transactions of conspirators, who consult secretly amongst themselves, maturing their designs in all the obscurity of concealment? It is almost impossible there can be any evidence but that of a person who has participated in the conspiracy, and although the preservation of his own life should be the motive of his coming forward to assist in the execution of public justice, that is no objection to the admissibility of his evidence; it is never too late for a man to do a meritorious action, to abandon his habits of guilt, and to adopt that line of conduct which not only contributes to his own safety, but is essential to the interests and tranquillity of his country. Such a man therefore redeems himself, as far as he can be redeemed, from the imputation which the crime attaches upon him, by honestly coming forward at any time to confess his errors, and boldly in a court of justice assisting to fasten those crimes upon others, in which unfortunately for himself, he may have been for a moment induced to participate. I do not hesitate to declare, that I have more satisfaction on behalf of the public in prosecuting upon the evidence of a fellow conspirator, than upon the testimony of a person altogether innocent of the crime, and why? Because the object of public justice is not so much the punishment of a guilty individual, as the example which is held out to the community, and obtaining unimpeached evidence of a dark and secret conspiracy is an accidental and fortuitous circumstance, not impressing upon the minds of those who may be solicited to embark in similar pursuits, any apprehension of detection, and

and therefore such prosecutions are not calculated to deter men from engaging in such designs. It is so seldom that persons of unblemished character can be produced to give evidence of dark and treasonable conspiracies, that the few instances which occur are rather considered as casualties too remote to be apprehended, than as consequences which should reasonably be expected to follow. And permit me, gentlemen, to ask you how long could the safety of the city be maintained, or the government upheld, if we were to look to the honest trader, and the opulent merchants for intelligence of what passed in the celebrated depot in *Patrick-street* or *Mafs-lane*? Your own understanding will shew you, that it is impossible the sober trader or industrious mechanic could fall into such company; to whom then are we to look but to those whose situations render them subservient to the delusive schemes of wicked and ambitious men, and who easily yielding to the temptations that were held out to them, are equally ready, upon a reverse of fortune, to point out those by whose artifices they have been deceived, and by whose wild and mischievous speculations they have been misled and inveigled.

Such men at length, though late, come forward to do justice to their country and themselves, and this, gentlemen, is your best safeguard against conspiracy. When those who conspire against their country assemble in their retirement, hid from the observation of honest men, and begin to debate plans of treason amongst themselves, each man looks into the countenance of his neighbour, and his heart becomes appalled when he recollects how many former conspirators have fallen by the disclosure of those in whom they have implicitly confided. This reflection disheartens the conspirator, and rebellion relinquishes the prosecution of her design. When, therefore, I am enabled to produce here a credible and consistent tale, told by men who have been seduced themselves to embark in traitorous designs, when they are supported by concurring circumstances and uncontroverted by respectable evidence, they are fully entitled to that credit from a jury, which is allowed to them by the law. And I feel that essential service is rendered to the country, when I am able to hold out to those who conspire against its peace, that they cannot securely repose confidence in each other. That no confidence can exist amongst traitors. That they can never foresee at what moment one of their party may feel compunction for his guilt,

guilt, and make atonement for his crimes, by becoming the instrument of inflicting punishment upon the guilt of others.

Gentlemen, I am ashamed at having trespassed so long upon your indulgence; but I thought it my duty to say so much, finding that attempts have been made to destroy the evidence of informers; but when that evidence is such as to obtain credit from a jury, it is the greatest death-blow which conspiracy can receive—it establishes a truth which cannot be too universally known, that those who are false to their King cannot be true to each other.

Edward Wilson, Esq.

Examined by Mr. MAYNE.

Gave the same account of the transactions in *Thomas-street*, as in *Kearney's* case.—Vid. No. 1. page 37s—and stated the circumstances respecting the depot in *Patrick-street*, as in *Mac Intosh's* case.

He was not Cross-Examined.

Felix Brady, Esq.

Examined.—Gave the same account as upon the first trial.—Vid. No. 1. page 40.

Not Cross-Examined.

Wheeler Coultman, Esq.

Examined.—Gave the same account as before.—Vid. No. 1. page 48.

Thomas Rice,

Proved the Proclamation as before.—Vid. same number, page 53.

John Fleming,

Examined by Mr. TOWNSEND:

Q. Where did you live in the month of July last?

A. At *Dillon's*, the *White Bull*, in *Thomas-street*.

Q. What house is that?

A. A carman's stage.

Q. Do you know *Marshall-lane*?

A. I do.

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Q. Did

- Q. Did it communicate with *Dillon's* yard ?
 A. Yes, the yard opened into the lane.
 Q. Do you know the malt-stores there ?
 A. Yes.
 Q. How near were they to *Dillon's* ?
 A. Next adjoining.
 Q. Were you ever in those stores ?
 A. Yes.
 Q. In what situation were you at *Dillon's* ?
 A. Hostler.
 Q. Then you were often in the yard and stables ?
 A. Yes.
 Q. If any thing difficult was going on in the store, it could not be concealed from you ?
 A. Not well.
 Q. Was it three months before the 23d of *July* you got into the store ?
 A. Yes.
 Q. Were you in it after ?
 A. Oftener than I can mention.
 Q. What did you see there ?
 A. Pike-handles, guns, blunderbusses and pistols and swords.
 Q. Did you see any gunpowder ?
 A. I did, sir.
 Q. Did you see any cartridges
 A. I did; and a mill for grinding powder fine.
 Q. Did you see any tailors there ?
 A. I did.
 Q. Any jackets ?
 A. I did—green, with white facings.
 Q. Did you see any handsome uniforms ?
 A. I did.
 Q. What kind ?
 A. Just like an officer's coat, with epaulettes and gold lace.
 Q. Did you see many persons there ?
 A. I did very often.
 Q. What were they doing ?
 A. They were employed at different works.
 Q. Where were the pike-handles made ?
 A. On the first loft of the store.
 Q. Did you see the people working at them ?
 A. I did.

Q. And

Q. And at various other works?

A. Yes.

Q. Look at the prisoner at the bar:—Did you ever see him there?

A. I did.

Q. Did you ever see him employed there at any work?

A. I saw him planing these handles.

Q. When did he come there first?

A. I cannot well tell.

Mr. BUSH. It is not laid as an overt-act in the indictment, that the prisoner was in the depot, or did any thing there.

Mr. TOWNSEND. There is an overt-act of a conspiracy to levy war.

Mr. BUSH. But I understood, that in the former cases, it was laid as an overt-act, that the party was in the depot.

Court. No, it was laid, that he procured arms and ammunition.

Mr. TOWNSEND. The rule of law is, that what makes a man accessory in felony, will make him a principal in treason, and where war is actually levied, all preparations for it will be evidence to support an overt-act of a conspiracy to levy war.

Q. When did the prisoner come to the stores?

A. In the last week before the 23d of July.

Q. With whom did he come?

A. I cannot tell.

Q. Do you know for what purpose these arms were collected?

A. I was told for rebellion.

Q. Were you told that in the depot?

A. I was.

Q. Who came with Keenan?

A. Four or five came at night—two, I heard, were deserters.

Q. Do you know the names of any of them?

A. Mac Intosh was one.

Q. Do you remember any other name?

A. There were others—but I do not recollect the names.

Q. Do

Q. Do you recollect what night they came?

A. I do not.

Q. Do you recollect any particular event happening?

A. No.

Q. Is *Mac Intosh* any relation of the prisoner?

A. I heard ~~for~~ when in the *Prevot*.

Mr. BUSHE. My Lords, I object to this evidence being given against the prisoner.—It is impossible that any connection in relationship can be evidence of connection in treason.

Mr. TOWNSEND. It may be evidence to go to the jury under particular circumstances; and was so determined in a case in *Strange*.

Q. Did you see the prisoner doing any thing?

A. I saw him working at pike-handles.

Q. Did you see him often?

A. I did every day in the week.

Q. (*By the Jury.* Did you go there often?

A. I did, three or four times a day—almost every day I was there.)

Q. What did you see the prisoner do?

A. Planing the handles, and stripped as workmen generally are.

Q. At what time did the insurrection begin?

A. After nine o'clock.

Q. Do you recollect seeing any persons come out of the depot?

A. I do.

Q. What number?

A. I cannot tell.

Q. How many do you think?—Were there fifty?

A. There were more than fifty about the place.

Q. Had they arms?

A. They had.

Q. What kind?

A. Blunderbusses, pistols, firelocks, and swords, and pikes.

Q. Where did they get these arms?

A. In and about the depot.

Q. Where did they proceed to?

A. Down to *Dirty-lane*, where some shots were fired.

Q. Where

Q. Where did they proceed to from that?

A. Up to *Thomas-street*.

Q. Did you see the prisoner in that party?

A. I saw him in *Thomas-street*.

Q. Did you see him coming out?

A. No, but I saw him in the depot that evening.

Q. Was he armed when you first saw him in *Thomas-street*?

A. He was.

Q. With what?

A. He had a pistol and a pike.

Q. When you first saw him, had he a pistol or a pike?

A. He had both together.

Q. Do you recollect the stopping of a carriage in *Thomas-street*?

A. I do.

Q. Did you see any thing done by the prisoner before that?

A. Nothing more than by any other.

Q. What persons were in the carriage?

A. Two gentlemen and a lady.

Q. What became of the lady?

A. She ran away.

Q. They let her go off?

A. She ran away.

Q. What became of the gentlemen?

A. One of them was piked, and was upon the ground — the other went off.

Q. Were there many about the carriage?

A. There were a great many.

Q. Did you see the first stopping of the carriage?

A. I saw it first stopped, but was not near enough to see what was done, till I got up and saw the gentleman upon the ground.

Q. Did you see the other gentleman going away?

A. I saw him going towards *John's-street*.

Q. Did you see any thing done to the person, who was upon the ground?

A. I did — I saw him stabbed with pikes.

Q. Did you know any of those who did so?

A. I did.

Q. Mention any of them?

A. *Keenan* was one.

Q. You

Q. You need not mention any other name.—Are you sure, he did so?

A. He did.

Q. (*By the Jury.* How near were you to him?

A. A few paces.)

Q. Where did you go to afterwards?

A. I went to *Meath-row*.

Q. Did you see the prisoner there?

A. I did.

Q. Did he say any thing there?

A. He said, "If every man of his sort was used so, we need not be afraid of the army."

Q. Were there many there?

A. There were a good many.

Q. Was any thing more said?

A. We were asked by *Mac Intosh* the mountains with him.

Q. Was the prisoner there?

A. He was of the party.

Q. Did *Mac Intosh* give any reason for going up the mountains?

A. *Mac Intosh* said, "the horse would come down and cut us off; the alarm being about the city."

Q. Were the *Generals* there at that time?

A. No, they went off to some place.

Q. Where did you go to?

A. We went to *New-street*.—A blunderbuss was fired, and I made my escape some way or another.

Q. Did you see the prisoner after that night?

A. I saw him in a lane from off *New-street*.

Q. Did you see him again?

A. I saw him in the *Prevot*.

Q. (*By the Jury.* Was it before or after you got into *New-street*, you saw him in the lane?

A. Before.)

Q. What became of you?

A. I remained in a house in *New-street* till *Tuesday*—I went to *Thomas-street*, and from thence to the country of *Kildare*, where I was taken upon suspicion, and kept in a guard-house in *Edenderry*, and sent to *Dublin*.

Q. And you told all you knew?

A. I was some time in confinement before I told all.

Crosby

Cross-Examined by Mr. BUSH.

Q. You said, there was nothing done by the crowd until you came?

A. I beg your pardon, I did not say that—I said, I did not see it, till I came up—I saw the gentleman upon the ground.

Q. You prevented any thing being done to the gentleman?

A. No, I durst not.

Q. But you would—only you were afraid?

A. I do not know, whether I would or not.

Q. You were compelled by force to be there at that time?

A. No, I was not—I was promised a great many good things, if matters went on.

Q. You were present, when the gentleman was stabbed?

A. I was.

Q. And you did not object, or prevent it?

A. I dare not.

Q. But you would have prevented it, if you could?

A. I did not wish to shed innocent blood.

Q. Did you give any information until you were taken up?

A. No, nor for a good while after.

Q. Then you gave information against others, when you became afraid of yourself?

A. I gave information, when a man came and gave evidence against me.

Q. Was it not from a hope of saving your own life, that you gave information?

A. I hope so, but was not promised.

Q. Though you were not forced yourself, do you not believe, that many were forced there?

A. They might, or might not: I saw none of them forced.

Q. Do you know Mr. McCreight?

A. I heard of him.

Q. He was forced to take a pike?

A. I heard of it, but I did not see him.

Q. Do you remember the former rebellion, five or six years ago?

A. I do.

Q. Were

Q. Were you ever accused of being connected with that?

A. I was accused of being sworn, but no further.

Q. That was an unjust charge?

A. I was sworn, when in liquor, and did not know whether I was sworn or not: but a man beside me said, I was, and I gave information to my officer.

Q. What officer?

A. I was in the army at that time.

Q. You had been attested and sworn to serve the King loyally and faithfully?

A. Yes.

Q. And you swore to be loyal and faithful to the *United Irishmen*?

A. I cannot say that, not knowing it.

Q. Have you not betrayed both, and been false to both?

A. I cannot say that.

Q. Which have you been true to?

A. I am false now to the *United Irishmen*.

Q. And before you were false to your King?

A. I never did him harm, nor saw it done, while serving him. But we were disembodied, and I was not serving him at the time of this business.

Q. When you were sworn an *United Irishman*, did you not think you did him harm?

A. I did not think it harm, when I did not know it, and when I was told of it, I told my officer.

Q. Was it for being guilty of no harm, that you were flogged?

A. Not much.

Q. How many lashes did you get?

A. 250.

Q. For what?

A. For being a mile from my quarters.

Q. Not for taking the oath?

A. That did not come against me in the court-martial.

Q. Were you accused of being present at a murder or a rape?

A. No.

Q. Are you sure?

A. I am certain—no man can be surer than myself.

Q. Now

Q. How were you armed upon the night of the 23d?

A. I was armed at first with a blunderbuss, and I swapped it at the corner of *Marshall-lane* for a firelock.

Q. You discharged it first?

A. No, I did not. I have a man to give evidence, I did not discharge it.

Q. When you were in the depot, was any man brought in there against his will?

A. I cannot say it of my own knowledge.

Q. Was any man brought in there and confined against his will?

A. I only heard of one man.

Q. You stood sentry over him?

A. No, I did not—I had too much business to take care of.

Q. How long after the 23d, were you taken up?

A. Twelve or fourteen days.

Q. In that time, did you ever go to any loyal man and tell him, you repented of what had been done?

A. I never did.

Q. Then you did not repent until you were taken up?

A. No, not for a long time after.

Q. Do you not think, that if some person had not come forward against yourself, you never would have repented?

A. I might, or might not—I cannot say.

Q. You do not seem much to repent now?

A. I do.

Q. But you would not repent, if you were not yourself charged?

A. I might repent, but would not divulge it.

Q. But you would not repent till sickness, or some such thing induced you?

A. I have repented of my folly and wickedness, though I did not give information—I did not wish my name to be blasted. There were many could give as much information as I, and I did not wish to be first.

Q. How many persons have you given information against, since you began?

A. I cannot well tell—I gave information as they occurred to my mind.

Q. You did not remember them all at once?

A. No.

D

Q. Your

Q. Your memory was refreshed—it happened a great while ago?

A. Not a great while; but a person troubled in mind, cannot recollect every thing at once.

Q. You knew of this business three months before it broke out?

A. I believe I did.

Q. In those three months, did you ever tell any person of it?

A. Not to injure it. I would not tell it to any man, who would tell it.

Q. Were you accused of being in any of the battles of the last rebellion?

A. No, never.

Q. You were not in any battle?

A. Not in regard of a rebel—I was upon an expedition with the regiment.

Q. Then it was after the rebellion, you were sworn to be a rebel?

A. No, it was before.

Q. Why, did you not leave the regiment after being sworn?

A. No.

Q. What!—after being flogged, you remained with the regiment?

A. Yes, it was not for that, I was tried.

Q. Was not the charge against you, that you were absent from your quarters with the King's enemies?

A. I cannot say that, nor could any one.

Q. Where was it?

A. At *Nobber*, in the county of *Meath*.

Q. You were a mile from your quarters?

A. I cannot say, not knowing the country.

Q. Who were with you?

A. The clerk of the church and his brother.

Q. And the officer charged you unjustly?

A. The officer was a wild sort of a man.

Q. And you were punished unjustly?

A. I was punished innocently.

Q. And the officers of the court were all wild men?

A. No: but his expressions, I suppose, got it for me.

Patrick Finnerty.

Examined by Mr. ATTORNEY GENERAL.

Q. What trade do you belong to?

A. The carpenters.

Q. Do you recollect being employed in any particular manner previous to the 23d of July?

A. I was.

Q. Where was it, and what were you doing?

A. It was in the place, commonly called the depot.

Q. In what street is it situated?

A. In *Marshall-lane*.

Q. Do you mean a lane running from the *Marshalls* to *Dirty-lane*?

A. Yes.

Q. What did you see there?

A. I saw several things.

Q. Mention some of them?

A. I saw timber, which they termed pike-handles.

Q. Did you see any people at work at them?

A. I did.

Q. Did you see *Fleming* there?

A. I did.

Q. Look at the prisoner?

A. I see him.

Q. What is his name?

A. *Keegan*.

Q. Did you see him there?

A. I did.

Q. Pray, what length of time did you see him there?

A. A short space of time—I visited the place but seldom, the last week I saw him there twice.

Q. Did you see him at any particular work?

A. No, sir.

Q. Did you know him before?

A. Yes, sir, I had a slight knowledge of him.

Q. Of what trade is he?

A. A carpenter, I believe.

Cross-Examined by Mr. MACRATH.

Q. How long were you acquainted with this depot?

A. From about the middle of *May* to the 23d.

Q. Where

Q. Were you there frequently during that time?

A. Yes, sir.

Q. How often in the course of a week?

A. Three or four days, in the course of a week, I worked there.

Q. What was the first time, you saw the prisoner there?

A. In the course of the week preceding the 23d.

Q. You say, you did not see him at work?

A. I did not.

Q. Were you acquainted with all the persons in the depot?

A. No, sir.

Q. Did you know all their faces?

A. Some I might, and some not.

Q. Did you ever observe, or hear that any man was forced in there?

A. I did.

Q. Did you ever see any man there that was forced?

A. I saw *Farrel*, who, I understood, was forced.

Q. Did you see him at work?

A. No, not in the interval I was there—I did not see him at work.

Q. Neither did you see the prisoner at work?

A. No, sir.

MR. ATTORNEY GENERAL. I thought it material to state the conduct of the prisoner at the time of his arrest; but the witness not attending at the commencement of the trial, I was unwilling to make any impression by statement, which might not be afterwards supported by evidence. Therefore, I declined stating it to the jury. The witness now attends, and we will prove the conduct of the prisoner, at the time of his arrest.

Abraham Coates, Esq.

Examined by Mr. ATTORNEY GENERAL,

Q. You are a magistrate?

A. I am.

Q. Where do you reside?

A. In the town of *Arklow*, in the county of *Wicklow*.

Q. Look at the prisoner at the bar—did you ever see him before?

A. I did—I saw him before, and recollect him perfectly well.

Q. In

Q. In what company did you see him ?

A. Together with *Mac Intosh*.

Q. Where ?

A. In the town of *Arklow*.

Q. How long might that be after the insurrection of the 23^d of *July* ?

A. I believe it was on the 26th of *July*.

Q. But you are certain it was thereabouts ?

A. It must have been—it was within the week after the insurrection.

Q. Were they in company with each other when you arrested them ?

A. They were.

Q. Did you ask them their names respectively, and what answers did they make ?

A. Not immediately - I brought them to the guard-house and there asked them.

Q. What answers did they make ?

A. The prisoner said, his name was *William Bryan*.

Q. Was he transmitted under that name from *Arklow* to *Dublin* ?

A. Yes.

Q. What name did *Mac Intosh* give ?

A. Either *John* or *James Magrath*; I believe it was *John*, but I am positive as to *Magrath*.

Q. Did the prisoner give any further account of himself—what trade he was of ?

A. He did—he told me he was a mill-wright, and was on his way to *Watersford*.

Q. Did they both give the same account as to that ?

A. They did.

Q. Did you interrogate them, as to their being in *Dublin* upon the 23^d ?

A. I did, they told me, they had not been in *Dublin* for three weeks before the rebellion.

Q. Which of them said so ?

A. I am not positive—they were both in the guard-house; but the prisoner said, “ he was not in *Dublin* upon the night of the 23^d,—that he had been working with “ *Mr. Jones, of Kilnecarrig*, some time before the 23^d.

Not Cross-Examined.

Extracts

Extracts from the proclamation were then read, as in the former cases.—Vid. No. I. *Kearney's case*, page 54.

Cafe closed on behalf of the crown.

Mr. BUSHE.

My Lords, and Gentlemen of the Jury,

In behalf of the prisoner, I think it proper to apprise you at once, that he offers no other case to the consideration of the court and jury, than an impeachment of the credit of the witnesses for the crown, supported by that, which of itself in all cases reflects somewhat upon the credit of the accuser, the good character of the person accused:—he does not intend to disgust the court with any of those fabricated *alibis*, which, I am afraid, are too frequently the defence of persons accused as he is; but he relies upon it,—and it is the only case, which I am instructed to state,—that you cannot conscientiously convict him of the charge, which has been brought against him, upon the evidence which has been adduced in support of it, and he trusts, that such his defence will be much fortified, when he produces persons of the first respectability to depose before you, to the excellence of his own character.

Gentlemen, there is nothing more true, than what has been urged to you upon the subject of common informers, in the very able and very constitutional, and temperate statement of his Majesty's ATTORNEY GENERAL:—It is perfectly true, that in most cases of conspiracy and treason, the crown is reduced to the necessity of proving the charge by accomplices alone; and the law wisely says, that for that reason, the evidence of such witnesses is admissible:—But the law has never gone farther than to say, that it was *admissible*; and has reluctantly and of necessity gone so far: And even in cases of the utmost necessity, the very competence of such a witness was formerly considered as questionable, and one of the highest authorities in the law; one of the greatest crown lawyers, who ever practised, and one of the ablest judges, who ever presided in a court of justice, states it to have been doubtful and unsettled, at the time in which he wrote, “whether the evidence of an uncorroborated approver was admissible?”—That doubt, I admit, has been since removed, and it is now the settled law, grounded upon the sad necessity of the case, that the man who comes forward,

forward, confessing his own enormities, may be listened to, when he imputes to another a participation in his own crimes:—But the law, in pronouncing such evidence to be admissible, has left it to the jury to pronounce, whether it be credible; and it would be a monstrous and a cruel absurdity to suppose, that the crown was not only warranted to produce an approver against the life of an accused man, but that a jury was compelled to believe him:—It is upon this distinction between the abstract *competence* of such testimony, and the credit, which is due to it, that I shall rely, in my address to your good understandings, and humane hearts, for the acquittal of the unfortunate man now standing at the bar.

Gentlemen, I have not attended any of the trials, which have lately taken place in this court; but if I am not misinformed the present case is distinguishable from them all in one respect, and if it be so distinguishable, you will be fully warranted in departing from those precedents, which former verdicts may seem to have prescribed to you:—Those verdicts, I have no doubt, were duly considered, and justifiably found; but I am informed, and believe it to be true, that in all those instances, the evidence of the approver was confirmed and supported by some collateral and accompanying testimony; whereas in the case now under your consideration, as far as regards the prisoner's guilt, not a single fact has been proved, or a single witness produced to supply the defective and suspicious proof; but the entire imputation rests upon the uncorroborated and self-condemned swearing of common informers:—The principle upon which I impeach such testimony is obvious and simple:—When a witness, in any case, calls upon you to believe what he says, you only venture to do so upon your conviction, that he has a sufficient sense of moral obligation:—You must be convinced, that his mind is so framed, that he abhors falsehood, and is incapable of wilfully deceiving, before you can safely give credence to his narrative, and you must further believe, that to him the solemnity of an oath is a sanction reverently considered, well understood, and conscientiously respected:—With these impressions, any man is well prepared and fully justified in forming an opinion upon the authority of another; but a jurymen has something more to do than to form an opinion:—He must form it upon oath:—His verdict swears him to the facts to which the witness has deposed:—He believes upon his oath,

oath, that which the other has sworn:—He commits his own conscience upon the conscience of the witness, and under this fearful responsibility for the consequences of what he does, he is called upon by common sense and by imperious duty, to weigh well, and to consider deeply the character of those whose statements he adopts and by whose oath he swears:—This may seem to impose upon juries a duty embarrassing and arduous, to require a logical estimation of evidence, and a scrupulous examination of character, and to look to their verdicts for greater certainty and correctness than can be reasonably expected from human fallibility: But the wisdom of the law interposes between the conscience of the jurymen and the hesitations of his reason, and points out an easy solution of such difficulties, as a strict attention to the dictates of either might suggest:—He is always called upon by the warning voice of the law, speaking through its constitutional organ, the presiding judge, to found a verdict of conviction only upon evidence, that admits of no doubt, and in all cases where a reasonable doubt can be entertained, he is informed, that it is his duty to pronounce a verdict of acquittal:—Miserable indeed, would be the situation and awful and tremendous would be the responsibility of a juror, if he was called upon in a criminal case to ground a verdict of acquittal upon a moral certainty of the innocence of the prisoner:—No such thing is required of him—that moral certainty is demanded only when he convicts; he is there called upon by every obligation, human and divine, to be certain of the guilt of the fellow creature, whose blood he is about to shed; and if he judges rashly, or partially, or passionately in the formation of that opinion, he has much to answer for indeed:—But in the case of an acquittal, *doubt* is a sufficient foundation for his verdict:—In pronouncing that the man is not guilty, he only says, that he has doubts of his crime; he does not say, that he is certain of his innocence: and if the judgment which he forms in entertaining those doubts, be unfounded, or mistaken, light and comparatively venial is the offence, and small indeed is the responsibility which attaches.—Humanity pleads for that mistake, and justice, though disappointed of a victim, pardons the error which defrauds its vengeance.—This is not my doctrine; it is the language of that law, which, I am certain, you will hear his lordship expound to you in the same manner, that I have done, but with greater authority than I can give; of that law whose

whose benevolent and wise first principles is this, *that it is better for society that ninety-nine criminals should escape than that one innocent man should suffer*:—In the name of that law therefore, and by the value you place upon your oaths, and the life of your fellow creature, I adjure you to govern your verdict in this man's case by that sublime sentiment, as by a polar principle—acquit, if you are not certain of his guilt, and do not convict, because you may have a doubt of his innocence:—

Perhaps the most sanguine advocate would be bound, in candour to admit, that in this case or in any such case there is reason to doubt of the prisoner's innocence; but I not only insist with you that, that is sufficient for his acquittal, but I call upon you to say, if there be doubt of his innocence, what doubts must there be of the witnesses' truth? Gentlemen, the necessity of affecting the life of a subject, by such evidence only, as is credible and unimpeachable, may be well collected from the anxiety of the law in the selection of jurors:—Those men, who are allowed to pass upon the lives of others, must be themselves above suspicion.—A certain degree of property must render them independent, and they must be the lawful and honest men of the county, from which they come;—no man stained by vices, desperate in circumstances and infamous by crimes, is allowed to pollute by his presence that sanctuary of legal purity, in which you are empanelled. The law, in the emphatic simplicity of its language, calls upon the prisoner to look upon his jury, as the twelve men, *good and true*, who are to stand together and bear the evidence against him; but vain and illusory is the protection of this principle, and frail and unavailing is the shield which the law throws over the culprit, if the integrity of the jury, who are to try him, can be counteracted by the infamy of the witness who may accuse him, and if those whose own purity entitles them even to bear the evidence shall be made channels and conduits, of the foul communications which flow from no other source, but the lips of the miscreant, who is to give it:—Gentlemen, apply these principles to this case, and say whether you have heard evidence this day, that can authorise you, *without a doubt, left on your minds*, to take away the life of your fellow subject at the bar?

That all that evidence is false, I do not contend, though I wish I could think so; it is the practice of every approver to

to state some facts of acknowledged authority; he necessarily states his own crimes, and while he does so, no one doubts his testimony, not, that he is believed from any reliance upon his credit, but that a man's admissions against himself are upon every principle not to be controverted:—But there are other parts of the evidence, the truth of which alas! cannot be disputed:—The horrid and disgraceful events of the 23^d of *July*, we know too well by melancholy experience:—They have been detailed this day with a frightful accuracy, and with a disgusting fidelity, by men who were principal actors in those atrocities; but we required no such memento to recall those scenes to our minds or impress them upon our memories.—No man, who wishes well to the peace and to the character of his native land can ever forget the horrors of that fatal night which outraged the one, and degraded the other.—No loyal man, attached to his Sovereign, and to the laws of his country, can ever forget that desperate, sanguinary, and unprovoked rebellion contemptible in its effort, but atrocious in its principle which threatened the subversion of social order, the dissolution of society and all the horrors of a murderous anarchy.—Who, that respects high situation, that honors talent that reveres integrity or that loves virtue, can ever forget the foul and bloody tragedy, that doomed to the fury of barbarian assassins the lamented Lord KILWARDEN?—That ever to be deplored event lives in the indignation of all, who admired him in public, and the sorrow of all, who loved him in private life:—Would to God! that the misery of the wretches, who have this day described those horrors, could induce a doubt of their existence!—But alas! the informers are corroborated here—the anguish of an orphaned and disconsolate family, the regrets of an honorable profession, the affliction of friends, and the indignation of a loyal and generous people, are all so many attesting witnesses, deposing before you to the lamentable truth:—But is it because the approvers whom you have this day heard, have in this spoken truly, that they are to obtain credit from you? Beware of so unjust a conclusion—remember, that they have not only proved those crimes to have been perpetrated, but to have been perpetrated by themselves,—remember, that they come forward, admitting themselves to be proficient in murder, rapine and treachery practised in every turpitude of which human nature is capable, and that the very credit which they deserve, which

they are recording their own infamy, is an argument for refusing them credit upon every other subject whatsoever.

Gentlemen, did you observe the manner in which the principal approver recounted the particulars of that guilty night? The frightful narrative was not embarrassed or intercepted by any interference of shame, compunction or regret—without a hesitation, a tremor, or a blush, did he frigidly detail with a horrid minuteness, the progress and consummation of an atrocious massacre, committed in his presence and by his associates in crime:—The reiterated description of those horrors has not after many months so hardened the public ear, that any man of common feeling can listen upon these trials to the necessary repetition of the details without emotion; no frequency can habituate a well regulated mind to such impressions, a good heart at every reiteration of the shock receives a fresh wound, and acquires a new sensibility:—Yet he, not a casual spectator of the scene, not a reluctant auditor of the tale, but an active performer in the bloody tragedy, goes through the dreadful drama from act to act, “preserves the natural ruby in his cheek;” while every honest man is frozen with horror, betrays no compunction that indicates a single latent remnant of probity or humanity, but with cold audacity and callous impenitence proclaims his own depravity in the face of the court and of the public:—Did you observe the phlegmatic and hardened indifference with which he admitted all the infamies of his former life?—What is that former life upon his own statement?—A history of crimes.—An attested soldier in the service and pay of his Sovereign, he betrays his colours and deserts his allegiance—he receives that ignominious military punishment which carries with it indelible disgrace;—he embarks in the rebellion of the year 1798, aggravating the offence by desertion—he embarks again in the rebellion of the present year;—not accidentally or by compulsion found in the rebel ranks, but an original traitor, a prime conspirator, an inmate of the depot, in the confidence of the leaders, recommended to them no doubt by his former exploits;—he rushes into the streets upon the 23d of July, participates in all the excesses of that night, and thus educated in crime and familiarized to infamy, he comes forward exhibiting himself in the character of a common informer; a double traitor as
false

false to the treason he had espoused, as to the king against whom he rebelled.

Gentlemen, let me be not mistaken. To be false to treason; to violate illegal oaths, and to keep no faith with the enemies of his country, I impute not as crimes to this man:—They are in themselves meritorious acts and were he influenced by principle in doing so, they would be the only virtues of a life otherwise uniformly abandoned and depraved:—I agree with the *Attorney General*, that it is not only necessary for public justice, to bring forward a common approver, but that it is conducive to public good to countenance and encourage the repentant traitor; and let his antecedent crimes have been ever so enormous, it is sound wisdom and liberal policy to permit them to be expiated by a sincere return to his allegiance:—But the counsel for the crown will scarcely offer this witness, as an instance of a penitent rebel and converted loyalist:—He does not pretend, that he ever felt contrition during the progress of his offences. He engages heartily in the work: He flies upon the defeat of his party, he conceals himself—he is apprehended, he is threatened with prosecution—he then is sorry—for what? Not for having offended; but for the bad success of his enterprize:—Is this penitence? Can this man, with the rope about his own neck, giving evidence in the hopes of saving his own life, be justifiably described, as a contrite traitor, atoning by his present discoveries for his former crimes? Surely, it would be an abuse of language and reason to consider him as such: On the contrary, the very circumstances, under which he becomes approver, raise an additional presumption against the truth of the information which he gives, for it is more consistent with the character of such a miscreant, when he finds it necessary to point out some victim, in order to save his own life, that he should mark for the sacrifice an innocent man, than that he should give up to justice a real confederate.

There is no observation, which I have made upon the testimony of *Fleming*, that does not substantially apply to the other witness: both are accomplices in the same crime, and both are confederated in the new guilt of a false accusation, and both are prompted by the same motive, the hopes of an undeserved impunity: let me, however, warn you against yielding to the vulgar error of inaccurate reasoners, and caution you against supposing, that any thing
which

which either of those men have said; can be any corroboration of what has been sworn by the other. The immorality, which discredits the one, can derive no accession of strength, by calling in aid the immorality of the other:—two incredible witnesses cannot form one credible testimony:—whatever conclusion is justly to be drawn from the evidence of each considered separately, must be formed upon the evidence of both, when taken together. If witnesses infamous and incredible were to be multiplied, *ad infinitum*, they would no more produce credible testimony by virtue of their numbers, than the multiplication of cyphers could produce a quantity. The only solid inference to be drawn from the concurrence of two such men in the same story, is a belief that as they were formerly confederated in other crimes, the same bond of union still subsists, and that they are now confederated in the new turpitude of perjury and fabrication.

Gentlemen. it would be idle to look for variations in premeditated and concerted falsehoods:—In those cases, such variations are least frequently to be found: when honest and unimpeachable men depose to the same fact, slight variations, and apparent contradictions will often be found, which to the mind of a just reasoner, present no ground for suspicion or imputation: a substantial concurrence and a circumstantial difference, between credible witnesses, is perhaps the best description and the truest test of evidence:—but little as it was to be expected, the two informers whom you have this day heard, are detected in a material contradiction of each other, in a circumstance that goes to the very vitals of the case, notwithstanding their repeated appearances upon this table as witnesses to the same fact; and notwithstanding the opportunity which the one enjoyed of hearing what the other swore:—they were both familiar with the depot, and yet *Fleming* has sworn, that he frequently saw the prisoner at work there, while *Finerty* has admitted, that he never saw him work there at any time. This fact upon which they differ is no collateral, or accidental circumstance—it is a main and substantial part of the imputation against the prisoner. You will, gentlemen, draw your own conclusions from such a contradiction— for my part I shall say no more about it; I feel, that by alluding to any secondary impeachment of their testimony, I am complimenting it in a manner, that it does

does not deserve, and may seem to abandon the strong ground of radical objection.

That objection is their infamy:—I ask you, is it probable or not, that the practised traitor, and bloody assassin, would be capable of perjury?—Will he, who stands by and assists at the slaughter of an unoffending and unprotected man, who sees him torn from the arms of an agonized child, and butchered by remorseless ruffians, is he the man, that would hesitate to plunge himself in the inferior guilt of bearing false-witness against his neighbour? Believe me, the transition is easy, if it may be called a transition. It is rather a descent in crime, and perhaps the miscreant, who is familiarized to the dagger, conceives himself to be comparatively innocent, when he only murders upon oath: gentlemen, weigh these considerations well, I need not exhort you to reflect upon them coolly:—It might in other times be an useful topic for the advocate to caution a jury against the impressions which alarm excites, and to deprecate the zeal of those feelings, which tumultuous times never fail to generate or to foment. But you are of a description to whom it is unnecessary to urge such observations, and if you were otherwise, I am bound to declare that they are rendered peculiarly useless and irrelevant, by the calm, decorous and constitutional conduct of those trials, and by the dignified temper with which the Government of country, resisting the general impatience, has deferred the investigation of the late atrocities until the ferment of the public mind had cooled and subsided. Let me, however, remind you, that there is a public mischief peculiar to such times as those we live in: periods of civil war and rebellion have always been fruitful in informers. It has in such seasons become a trade, and we learn from history, that the melancholy and concurrent consequences have been the sacrifice of innocent individuals, the prostitution of public justice and the disgrace of the country.—I allude not merely to the *delator* of Roman story.—In our own kingdoms, in the reign of *Charles* the second, a tribe of these miscreants flourished. The wretched and depraved policy of the times encouraged the practice and the crime grew into fashion. It was not confined as in this case to hostlers and to carpenters and the lowest of the community, but some of the proudest nobility of *England* condescended to the vile employment, and “all the blood of all the *Howards*” was insufficient to exalt an infamous individual of that illustrious

ous name above a foul participation in the base offence. What was the consequence? Some of the purest and the richest blood in the realm stained the scaffold, and it remained for the penitence of future legislatures in reversing the attainders, to do an act of tardy and ineffectual justice to the memory of the victims, thus sacrificed to the eternal reproach of law, and the indelible disgrace of the nation:—Gentlemen, these historical lights are not unedifying—it is the advantage and privilege of later times; that we can avail ourselves of the errors as well as of the wisdom of our ancestors, and it is the melancholy reflection of those, who study history, that it teaches oftener by negative than by positive instruction, and furnishes more examples to avoid, than to imitate.

Gentlemen, I should manifest a want of candour little creditable to myself, or serviceable to my client, if I were to pass by without observation a part of the evidence, which possibly has made some impression upon you: I allude to the account which has been given of the prisoner's conduct and demeanor at the time of his apprehension in the county of *Wicklow*: Those facts have been disclosed by a respectable magistrate of that county, whose veracity cannot be questioned; but the conclusion intended to be drawn from them appears to me to be stronger than fair reasoning will warrant. That a man at such a period should leave his home and be found in a distant place, passing under an assumed name; is beyond all doubt a circumstance of much suspicion:—It is such a circumstance, as ought to conclude a grand jury, whose office is merely to enquire, whether there be sufficient ground for putting a matter into a course of enquiry, and it is one, which in the progress of that enquiry would, I admit, suggest much doubt of the innocence of the person of whom such facts were told:—But I cannot too often remind you, that you are not impanelled to find any verdict upon doubts, except a verdict of acquittal: If you convict, it must be upon positive proof and not upon suspicion and surmise.—That the utmost conclusion to be drawn from the fact is suspicion and surmise appears from this, that if the fact stood alone, it never could warrant a conviction; and no jury, whatever might be their doubts of the prisoner's innocence, would for a moment hesitate to acquit. I ask you then, does it not to all intents and purposes stand alone? If there be any weight in the observations I have urged to you, the evidence

dence of the informers must go for nothing, and be put out of the case: no intelligent jury would suffer their testimony to make even an ingredient in their verdict. Does it derive then any corroboration from the circumstance now alluded to? Surely not. That, which of itself only suggests a suspicion, cannot confirm in any respect that which antecedently was unworthy of belief: The utmost that could follow would be, that what was actually discredited before may become somewhat doubtful; and the mind may be disposed to go so far as to say, that by possibility it may be true: But is that enough? Surely not.—You must believe *without doubt or scruple*, if you convict, and if not, your verdict would convict yourselves, as well as the prisoner: But consider, whether the fact relied upon is so conclusive as it is supposed to be: An honest and a firm man, I admit, will stand his ground upon all occasions; but a man may be honest and not be firm:—Timidity and weakness may suggest to one man, what from the most conscious guilt would scarcely occur to another: You all recollect the agitation and alarm which pervaded this city after the 23d of July; the spirit of unwearied vigilance, and the almost unrestrained zeal that animated all its loyal inhabitants.—Judge then, whether in such a moment a man of the rank of a mechanic, living near *Thomas-street*, and unfortunately connected by relationship with a traitor, might not justifiably tremble for his liberty, or his life; consider whether such a man however innocent might not be tempted to adopt those measures, which guilt would also pursue, and by infirmity and indiscretion incur an undeserved suspicion? If that were the case, surely you would never make such suspicion the foundation of that awful verdict, which carries with it the dreadful penalties of high treason, the loss of life, with every aggravating circumstance that can make death terrible, the forfeiture of property, attain of blood, and eternal infamy of name:—Surely you will pause, before you involve a fellow creature in all this; even though a doubt of his innocence should be raised by a circumstance of suspicion, and you will remember, that such suspicion is in no manner fortified, but by the blasted testimony of rebels, and murderers, upon whose swearing every thing is doubtful, except their own depravity.

Gentlemen, I am instructed to say, that we shall produce to you the most respectable witnesses to the character of my client.—He will be represented to you as a man of
sober,

sober and frugal habits; strict morals, and laborious industry; exemplary in all the relations of life, in that humble sphere in which he moves: He will be proved to you, to have resisted the universal infection which pervaded his class in the trying season of the year 1798, and to have been conspicuous for loyalty and peaceable demeanor.— You will judge, whether such a man was likely to engage in a conspiracy against the state, or to aspire to the dreadful eminence of revolutionary power:—You will balance, by the doubts which such a character must suggest, those suspicions which the evidence may have excited, and you will be warranted in favour of such a man to give favourable constructions to all that is equivocal, and mercifully to interpret whatever is obscure.—To the crown, mercy exclusively belongs, and I address you not, to usurp or interfere with that prerogative, but I exhort you to consider the question before you with the temper in which a humane heart always co-operates with a sound understanding.—You will remember, that by our law the object of punishment is not vengeance, but example; its principle is to prevent the commission of offences in future, and it does not affect the vain office of avenging or repairing the past:—Such mischief is irreparable, and such disgrace is indelible: Hecatombs of victims could not atone for the loss of that great and good man, whose tragical fate has given such dreadful celebrity to our late commotions:—In the progress of public example, many lives have been already sacrificed to justice.—Perhaps the multiplication of such instances hardens more than it edifies, and you have had ample opportunity to observe, that it is not more the interest of mankind, than it is the wish of the humane characters who prosecute for the crown, that the tranquillity of the country should be restored with the smallest possible effusion of human blood.

Michael Sanford,

Examined by Mr. MAGRATH.

Q. Do you know the prisoner?

A. Yes.

Q. How long?

A. Since the first of July.

Q. Did you know him before?

A. No.

F

Q. What

Q. What knowledge had you of him?

A. I wanted a carriage room behind my house, and I employed a bricklayer for the purpose, and desired him to bring a carpenter, and he brought this man, and he worked with me.

Q. How long?

A. Eight or ten days.

Q. Did he work diligently during that time?

A. He did, because the bricklayer's work was going on.

Q. Do you know his general character or conduct?

A. I never knew him before.

Alexander McOwen,

Examined by Mr. BUSHE.

Q. Do you know the prisoner?

A. I do.

Q. How long?

A. I have known him a long time, since he was a boy.

Q. What is his general conduct and character?

A. Very good, he wrought with me in Captain *Dickenson's* cotton mill.

Q. His conduct you say was good?

A. Yes.

Q. Was he industrious?

A. Yes.

Q. Peaceable?

A. Yes.—He wrought with me since he learned his trade till nine months ago.

Q. Do you remember the year 1798?

A. I do.

Q. During that time, was his conduct proper?

A. I never heard a word of anything disaffected charged against him—I thought him well affected, and was much surprised at hearing of this matter—I could not believe it when I heard he was in the depot.

Cross-Examined by Mr. ATTORNEY GENERAL.

Q. Where do you reside?

A. At *Finglajs Bridge*.

Q. When did you see the prisoner last before the rebellion?

A. I cannot well tell; I suppose about a month or six weeks.

Q. Did

Q. During that month, or six weeks he did not work with you?

A. No:—he worked in *Dublin*.

Q. Did you know *Mac Intosh*?

A. No.

Q. Can you form any belief, whether he is any connection of the prisoner?

A. No, I cannot.

Case closed on behalf of the prisoner.

The evidence was not spoken to by counsel upon either side.

Lord NOREURY.

Gentlemen of the Jury,

The prisoner stands indicted of High Treason; you have heard the indictment read, and the overt-acts which are applicable to the several species of treason, with which the prisoner is charged.—They are sufficiently within your comprehension, and I shall only trouble you with a cursory repetition of them, in order to guide your attention, when you are applying the evidence which has been adduced to prove these overt-acts. The first overt-act stated in that count which charges the prisoner with compassing the King's death, is, that the prisoner did conspire and make public war and insurrection, for the purpose of overthrowing the Government. Secondly, that he did associate himself with several traitors and did bear arms and carry weapons for the purpose aforesaid; next, that in prosecution of that treason, he with a multitude of persons, armed and arrayed in a warlike manner, did levy war against the King. The next count is for conspiring to levy war; and that he did actually levy war is laid as an overt-act of that latter treason.

In order to support this case upon the part of the crown, the first witness examined was Mr. *Wilson*. (*His Lordship stated the whole of the evidence, accompanying his statement with occasional observations.*)

He said, the witness *Fleming* was charged with having violated his oath to the *United Irishmen*.—It could not be inferred from any principle of justice, religion, or morality, that the violation of such an oath was criminal.—It was a wicked and abominable obligation; derogatory to every duty which man owed to God and his country.—It was the contrivance of desperate and wicked men to secure assistance, and he who took it could only be reconciled to society by totally

totally disregarding such an oath—it was better kept in the breach, than in the observance.

The prisoner when apprehended, said, he had been working with Mr. Jones; he had an opportunity of producing Mr. Jones, to shew that fact, which would be evidence to establish the impossibility of his partaking in the guilt of the night of the 23d of July. He was asked, “where he was upon that night,” and from that moment, and from his committal, he knew, that the charge against him was the business of the 23d of July. His exculpation then was, that he worked with Mr. Jones, whose place of residence he mentioned, but he does not produce him. I will not draw other arguments or conclusions from this conduct—that is your province—but it is material to observe, that it was competent to the prisoner to call Mr. Jones, or account, why he did not produce him.

Gentlemen, several observations have been made by the prisoner's counsel, which will be received by you with that attention, which the weight of them deserve, recommended as they are by the acknowledged talent of the advocate. Some topics, however, have been urged, which were suggested by the necessity of the case, and ought not to pass without observation. He stated the doubt of a great legal man with respect to the admission of a single corroborated accomplice as competent to convict a person accused of a crime. But it is admitted, that whatever doubt might have been formerly entertained, modern authorities have accepted of such evidence, leaving always the measure of credibility to the jury. So far, what was urged by the counsel was true. He, however, did advance and allege, that this case rested upon the uncorroborated testimony of approvers, and that it was impossible for two credible witnesses to form a body of evidence, sufficient to establish conviction, if each of these witnesses separately taken was himself incredible. Gentlemen, before I go into any extent of observation upon the subject, I am bound to say, that this is not the case of one uncorroborated accomplice, or of two uncorroborated accomplices; for undoubtedly here is evidence, which has been always received and considered of importance, from whence you may infer (but it is entirely for you and not for me to say,) that it tends strongly to support the testimony of the accomplices.

It has been held, upon principles of sound reasoning, that in addition to a body of evidence, where there has been primary

primary testimony, with regard to imputed guilt, the circumstance of flight, seeming to be the consequence of that defined charge, is in contemplation of law strongly corroborative of the charge.

It is said, that the act of disclosing his own guilt diminishes the credit which an accomplice otherwise might have; that demands observation, because the result is exactly the reverse in reason, law, and adjudged authorities. To render an accomplice entitled to be admitted upon the part of the crown, the disclosure of his own guilt, and the full account of his participation in it, is deemed of absolute necessity. The keeping back any thing would be an imputation upon his credit. The converse of the proposition must have its weight. In the case of *Caroline Ruda*, all the principles upon this subject are stated, and there it is mentioned as an incident, both to entitle the witness to credit with the jury and to favour with the crown, namely, a disclosure of the guilt, without which neither credit nor favour ought to be granted. That case came before the court of King's Bench, upon a motion to bail Mrs. *Rudd*, and the judges gave their opinion *seriatim*, so that it may be considered as a solemn adjudication.

The learned counsel seemed to argue, that there was an equal obligation in the oath of the *United Irishmen*, and the oath to the crown, and that the degree of levity with which the witness treated them must affect his credit upon the present occasion; and that if such witnesses were multiplied *ad infinitum*, their evidence could not amount to more than that of an accomplice. I take it to be a principle, that if a witness be consistent with himself in every part, it is a circumstance in favour of his credit; but if another man gives the same account, and notwithstanding all the sifting and examination to make them vary, they are still consistent, it is a step towards the confirmation of the first, more than if the case rested upon his solitary testimony.

But these two witnesses appear to have participated in the same guilt; and it is for you, Gentlemen, to decide upon their credit, after a due attention to all the circumstances which have appeared, and all the witnesses you have heard.

Some observations have been made with respect to former occasions, and the dangers which arose in the times of civil war, when informers of plots came forward, and some of the ablest men in *England*, suffered by such testimony. I am very desirous, that every thing which can guide the mind

of a jury, whether taken from history, or discussions upon all the possible mischiefs, which may arise, should go to the jury.

With regard to the fabrications in other times, the objection did not now apply, because no question here was made as to the existence of the conspiracy; and that fact being admitted, the objection to the testimony of an accomplice giving a detail of the transaction would go to the rejection of such evidence altogether; and if it were true, that one accomplice was not credible, because he acknowledged his own guilt, and that he cannot be confirmed by another, though telling the precise same facts, what would become of the country, where treason is hatched in private, matured in secret, and if not disclosed by the associates in it, the guilt of all would escape. No such doctrine has been held for a century, nor since the case of *Charnock*, and it has been well observed, that not only policy, but legal principle and sound sense have fortified the propriety of receiving an accomplice in crimes to give evidence against his associates.

As to the effect which may follow from conviction, it is not the duty of a judge to observe upon.—But I am bound to tell you, that the species of evidence which has been this day submitted to you, has been often received and under the authority of the judges of *England*, a man may be convicted by the testimony of one such witness.—But however, that is not this case. Here are two accomplices consistent, and there is another branch of evidence unimpeached, and uncontroverted,—the flight of the prisoner, the assumption of a feigned name and character, and an account of his employment incompatible with the charge imputed to him, and yet no person is produced to account either for the change of name, or the route he travelled, or to shew that he was employed during the period he said he was at *Kilnecarrig*.

Gentlemen, I have stated to you the body of evidence, which has been adduced to support the case on behalf of the crown.—Upon the part of the prisoner two gentlemen have been examined to his character. One of them was *Mr. Sandford*, who says, he knew nothing of the prisoner until the 1st day of *July* last, that he worked for him eight or nine days, but he knew nothing of his character. The next witness was *Mr. M'Owen*, who stated his knowledge of the prisoner for a considerable length of time, and deposed

posed to his character for being a well conducted, industrious and peaceable man, and against whom the witness never heard any thing disaffected charged, until the present charge.

With respect to the flight and change of name by the prisoner, it was said, that through weakness on account of his companion he might have changed his name without being really guilty. I do not wish to take away the effect of such an observation. But it is for you, gentlemen, to determine, whether an innocent man could be driven so far weak a subterfuge, because he was in company with another, who was supposed to be a rebel:—whether that was natural conduct is for you to determine.—I have gone through the evidence, and presumed to suggest some answers to the legal effect of the arguments urged by the counsel, not for the purpose of imputing any thing to what has been offered; but as they might operate upon men of less sagacity than you are—You will give due weight to the arguments which have been urged on behalf of the prisoner, and if you have any rational doubt, such as honest men may entertain, in discharge of the solemn duty between the prisoner and the country, you ought to acquit him. But if you find the evidence coercive and obligatory upon your minds, in that case it will be your duty to convict. Confer together upon the case, and return such verdict as will be agreeable to your own consciences and the justice of the country.

The Jury retired; and after deliberating five minutes, returned a Verdict—*Guilty*.

Mr. ATTORNEY GENERAL. My Lords, I am now to pray the judgment of the court against the prisoner.

The prisoner was accordingly called up—his indictment read, and he was asked in the usual way, what he had to say, why judgment should not be pronounced against him.

Prisoner. My Lord, I pray a long day—I declare before God and the world, that I never carried a pike, nor shed a drop of human blood in anger; nor did I see Lord KILWARDEN, but the carriage, and of all the men I have heard of, he would be the last I would attack (if I were so infatuated as to attempt any man's life in cold blood) on account of his excellent character,—and I make this declaration, as if I was appearing before the awful throne of Supreme Majesty:—I neither had

had a pike, nor fired a shot,—nor did I see any thing but the carriage.—Let my fate be a warning to all men how they appear upon such occasions.—I do not make this declaration of my innocence in expectation of a long day, which I have solicited; because, if you desire it, I am ready to go out to-morrow, conscious of my own innocence.

Lord NORBURY. *Thomas Keenan*, the interval which has been allowed you to shew any reason, why the sentence of the law should not be pronounced, you have availed yourself of. But I am now to observe to you, that the crime of which you have been found guilty is High Treason, for raising, and joining in an insurrection to make a cruel attempt to overthrow the government of the country. You joined with false traitors to accomplish that design, and that is a matter of which you have been so palpably and clearly convicted, that your own conscience will not suffer you to deny it, or the evidence by which the fact has been proved against you.

I am sure it is no wish of mine to load you with more atrocities than may be absolutely necessary to impress you with a due sense of your situation. If I knew how to wipe away the offences which have been fastened upon you by the law and the verdict of the jury, I would endeavour to console you. But as to your having joined in a conspiracy with desperate and cruel men to overthrow every thing which is valuable to society, you have not the hardihood to deny it. You have been engaged in the most cruel, unprovoked, and unnatural rebellion that is to be heard of in the history of the world. It was so groundless—so unprovoked and unnatural, that not a single word has been, or can be said either in public or private in favour of the men, who have been engaged in it.—You were living under the protection of the most free government in the world.—You are an artificer, capable of earning a livelihood, and even of acquiring wealth: But you abandoned those comforts and joined in treasonable designs to destroy that constitution which protected you, and this, with a knowledge of the fate of a former attempt in 1798, which was put down, after bringing numerous mischiefs upon the country.

After making a few necessary examples, the King came to his parliament to obtain its assistance to frame an act of general pardon, inviting all his rebellious subjects back to

to their allegiance.—The act of 1798 recites,—“ The King’s desire to shew his royal inclination to mercy, and to encourage his subjects to return and continue in their obedience, rather by acts of grace and mercy, than by a severe execution of justice, not doubting, but that however it may be received by those who are obstinately bent on the ruin of their country, it will raise a due sense of gratitude in all who have been artfully misled into treasonable practices.”

The effects of that rebellion had very much subsided.—Thank God! the great body of the people returned to their allegiance. The country advanced in prosperity—men of your condition were every where employed to repair the ravages which had been committed, and the wealth of the rich was distributed among those who chose to be industrious.

And what is the season in which you have again broken out. The government was munificent and merciful.—There were no severities practised upon any order, or rank of people. But a war commenced between this empire and a desperate and cruel tyrant; who has involved a great proportion of the world in trouble and misery—that was the season in which you chose to bring this calamity of rebellion upon the country.—No complaint was made; nor was there foundation for any—but at midnight without notice of any kind; you issued forth; under the auspices of a desperate set of ruffians, calling themselves “generals”—to attack—whom?—those who protected you, and were enabling you to grow wealthy, if you thought proper. Your *generals*; like all iniquitous conspirators; became the first fugitives;—discomfited and routed; they ranged over those mountains; which you traversed, before you reached the town of *Arklow*.—You went off with *Mac Intosh*, a brother carpenter, who came from another country, probably when disturbances were breaking out there; and brought the mischief here.

Justice has overtaken you and brought you to trial.—What species of trial have you had?—Is it such as a military tribunal formed under the authority of “the Provisional Government” would have allowed? Were you proceeded against hastily—without an opportunity of preparing for your defence?—You have had an opportunity since the 26th of *July* till this moment; and if you were an innocent,

honest man employed by Mr. Jones, of Killinearrigg, you could have brought him forward.

But you make an excuse now, that you did not kill any man in cold blood, or in anger. But you joined in a conspiracy, which, if it had succeeded, would have deluged the country in blood.—You supported that conspiracy as far as you could, and you claim the protection of innocence now, because you say, you did not murder any individual. I tell you this; that you were guilty of the murder of every individual who fell that night, if you engaged in the conspiracy and supported it, as appears, until you were stopped by the King's forces.—There was not a murder committed of which you had not a share.

I will not consume more of the public time, than is necessary. But you have talked of another tribunal, before which you are to appear. I wish to prepare you for it; and if I had a word of comfort to give you before that awful sentence, which must send you there, I would give it to you. Because it is not for the purpose of making use of severe expressions that I address you, it is only to remind you of that fate, which your crimes have brought upon you and public example requires.

You are to appear before a dread tribunal, where the secrets of all men's hearts are unfolded beyond the possibility of concealment. It is not because works of darkness—midnight assassination—escape the light until they are brought forward to the bar of justice, that therefore you are to hope any such concealment can avail before the Searcher of all hearts. I beg you to use the time which is left for you in preparing for eternity. With this exhortation, I leave you to pronounce the dreadful sentence of the law, which I do with great pain and feeling, though it is a sentence of justice which all men are doomed to suffer who violate those laws under which they might live with comfort and happiness.

The learned Judge then pronounced the sentence in the usual form.

The prisoner was executed in *Thomas-street*, on *Wednesday*, 5th *October*.

Counsel for the Crown.

Mr. Attorney General,
Mr. Mayne,
Mr. Townsend,
Mr. Ridgeway,

Crown Solicitors,

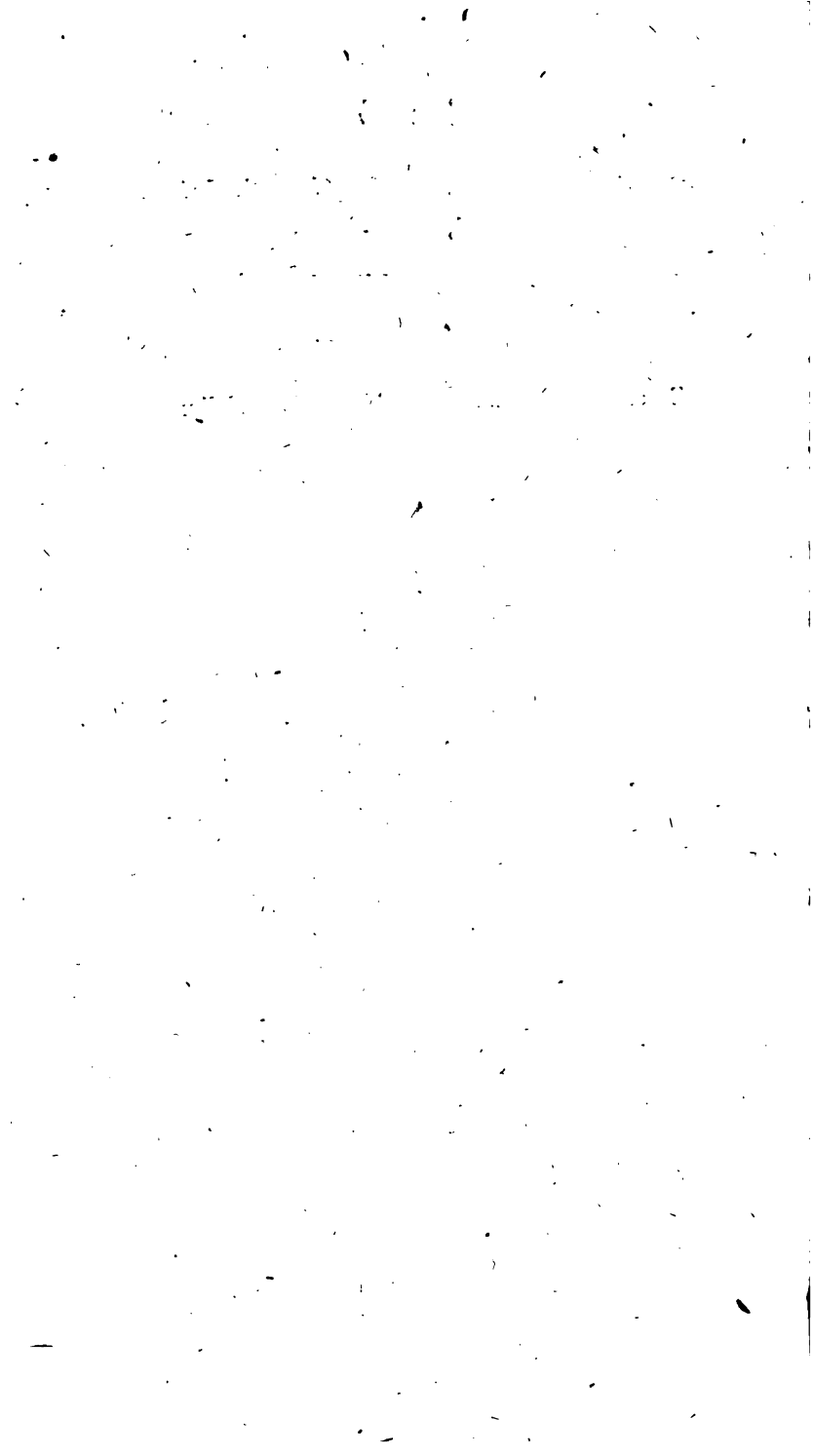
T. and W. Kemmis.

Counsel for the Prisoners.

Mr. Bushe,
Mr. Magrath,

Agent.

Mr. L. Mac Nally.



A

R E P O R T

OF THE

PROCEEDINGS

IN

Cases of High Treason.

SPECIAL COMMISSION.

Wednesday, 5th October, 1803.

Judges present:—*Lord NORBURY, Mr. Baron GEORGE,*
and *Mr. Baron DALY.*

D*ENIS LAMBERT REDMOND*, was put to the
bar and arraigned upon the following indictment:—

County of Dublin, } **THE** Jurors for our Lord the
to wit. } King; upon their oath present, that
Denis Lambert Redmond, late of the *Coal-quay*, in the city and
county of the city of *Dublin*, Gentleman, being a subject
of our said Lord the now King, not having the fear of God
in his heart, nor weighing the duty of his allegiance, but
being moved and seduced by the instigation of the Devil,
as a false traitor against our said Lord the now King, his
B supreme,

supreme, true, lawful and undoubted Lord, the cordial love and true and due obedience, which every true and dutiful subject of our said Sovereign Lord the King, towards him our said Lord the King, should bear, wholly withdrawing, and contriving and intending the peace and common tranquillity of this Kingdom to disquiet, molest and disturb, and the Government and Constitution of this realm to change, subvert and alter, and our said Lord the King from the Royal state, title, honor, power, Imperial crown and Government of this realm to depose, and deprive, and our said Lord the present King, to death and final destruction to bring and put, he the said *Denis Lambert Redmond*, on the twenty-third day of *July*, in the forty-third year of the reign of our said Lord the King, at the *Coal-quay* aforesaid, in the city and county of the city of *Dublin* aforesaid, with force and arms, falsely, wickedly and traitorously, did compass, imagine and intend, our said Lord the King, then and there, his supreme, true and lawful Lord, of and from the Royal state, crown, title, power and government of this realm to depose and wholly deprive, and our said Lord the King to kill and bring and put to death; and that to fulfil, perfect and bring to effect his most evil and wicked treason, and treasonable imaginations, and compassings aforesaid, he the said *Denis Lambert Redmond*, as such false traitor as aforesaid, on the said twenty-third day of *July*, in the said forty-third year of the reign of our said Lord the King, at the *Coal-quay* aforesaid, in the city and county of the city of *Dublin* aforesaid, with force and arms, falsely, maliciously, and traitorously did leave and go out of the dwelling house of him, the said *Denis Lambert Redmond*, there situate, for the purpose of meeting, advising, consulting, conspiring, confederating and agreeing to and with divers other false traitors, whose names are to the Jurors aforesaid unknown, of concerning, and upon the raising, levying, and making public war against our said Lord the King within this Kingdom, and the time, place, and manner of beginning and carrying on the said public war against our said Lord the King.

And afterwards, to wit, on the said 23d day of *July*, in the said forty third year of the reign of our said Lord the King, with force and arms, at the *Coal-quay* aforesaid, in the city and county of the city of *Dublin* aforesaid, the said *Denis*

Denis Lambert Redmond, as such false traitor as aforesaid, in further prosecution of his treasonable purposes aforesaid, falsely, maliciously, and traitorously did leave and go out of the dwelling-house of some person to the jurors unknown, there situate, for the purpose of meeting, advising, consulting, conspiring, confederating and agreeing to, and with divers other false traitors, whose names are to the said jurors unknown, of and concerning and upon the raising, levying, and making public war against our said Lord the King within this kingdom, and the time, place, and manner of beginning and carrying on the said public war against our said Lord the King.

And afterwards, to wit, on the said 23d day of *July*, in the said forty-third year of the reign of our said Lord the King, with force and arms, at the *Coal-quay* aforesaid, the said *Denis Lambert Redmond*, as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes aforesaid, falsely, maliciously, and traitorously did conspire, confederate, and agree to, and with divers other false traitors, whose names are to the jurors aforesaid unknown, to raise, levy, and make a public and cruel insurrection, rebellion, and war against our said sovereign Lord the King within this kingdom.

And afterwards, to wit, on the said twenty-third day of *July*, in the said forty-third year of the reign of our said Lord the King, with force and arms, at the *Coal quay* aforesaid, in the city and county of the city of *Dublin* aforesaid, he the said *Denis Lambert Redmond*, as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes aforesaid, falsely, maliciously and traitorously did make and prepare, and did cause to be made and prepared, divers weapons called pikes, with intent, that divers other false traitors, whose names are to the said jurors unknown, should be armed with the said pikes, and being so armed, should use the same in and for the raising, making and carrying on insurrection, rebellion and war against our said Lord the King, and in and for committing and perpetrating a cruel slaughter of, and amongst the faithful subjects of our said Lord the King in this kingdom.

And afterwards, to wit, on the said twenty-third day of *July*, in the said forty-third year of the reign of our said Lord the King, with force and arms, at the *Coal-quay* aforesaid,

aforesaid, in the city and county of the city of *Dublin* aforesaid, the said *Denis Lambert Redmond*, as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes aforesaid, falsely, maliciously, and traitorously did keep, and conceal, and did cause to be kept and concealed divers weapons called pikes, with intent that divers other false traitors, whose names are to the said jurors unknown, should be armed with the said pikes, and being so armed, should use the same in and for the raising, making, and carrying on insurrection, rebellion and war against our said Lord the King, and in, and for committing, and perpetrating a cruel slaughter of and amongst the faithful subjects of our said Lord the King in this kingdom.

And afterwards, to wit, on the said twenty-third day of *July*, in the said forty-third year of the reign of our said Lord the King, with force and arms, at the *Coal-quay* aforesaid, in the city and county of the city of *Dublin* aforesaid, the said *Denis Lambert Redmond*, as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes aforesaid, falsely, maliciously, and traitorously did employ and cause to be employed divers persons, to the jurors unknown, in forming, shaping and preparing divers wooden poles of a great length, to wit, of the length of six feet, in order and with intent, that a sharp pointed piece of iron should be thereafter affixed to the end of each of said poles; and that divers pikes should be thereby made, and constructed, and that divers other false traitors, to the jurors unknown, should be armed with the said pikes, and being so armed, should use the same in and for the raising, making, and carrying on insurrection, rebellion and war against our said Lord the King, and in and for committing and perpetrating a cruel slaughter of and amongst the faithful subjects of our said Lord the King in this kingdom.

And that afterwards, to wit, on the said twenty-third day of *July*, in the forty-third year of the reign of our said Lord the King, with force and arms, at the *Coal-quay* aforesaid, in the city and county of the city of *Dublin* aforesaid, the said *Denis Lambert Redmond*, as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes aforesaid, with a great multitude of persons whose names are to the Jurors unknown, to wit, to the number of one hundred

hundred persons and upwards, armed and arrayed in a warlike manner, to wit, with guns, swords, and pikes, being then and there unlawfully and traitorously assembled and gathered against our said Lord the King, falsely, maliciously and traitorously did prepare, levy, ordain, and make public war against our said Lord the King, against the duty of the allegiance of him, the said *Denis Lambert Redmond*, against the peace of our said Lord the King, his crown and dignity, and contrary to the form of the statute in such case made and provided.

And the Jurors of our said Lord the King upon their oath do further present, that the said *Denis Lambert Redmond*, being a subject of our said Lord the now King, and not having the fear of God in his heart, nor weighing the duty of his allegiance, but being moved and seduced by the instigation of the Devil, and entirely withdrawing the love and true and due obedience which every subject of our said Lord the King, should and of right ought to bear towards our said Sovereign Lord the King, and wickedly devising, and intending to disturb the peace and public tranquillity of this kingdom, on the twenty-third day of July, in the forty-third year of the reign of our said Lord the King, with force and arms, at the *Coal-quay* aforesaid, in the city and county of the city of *Dublin* aforesaid, unlawfully, maliciously, and traitorously did compass, imagine, and intend, to raise and levy war, insurrection, and rebellion against our said Lord the King within this kingdom. And in order to fulfil, and bring to effect the said traitorous compassing, imaginations and intentions of him the said *Denis Lambert Redmond*,—He the said *Denis Lambert Redmond*, afterwards, to wit, on the said twenty-third day of July, in the forty-third year of the reign of our said Lord the King, with force and arms, at the *Coal-quay* aforesaid, in the city and county of the city of *Dublin* aforesaid, with a great multitude of persons whose names are to the said Jurors unknown, to a great number, to wit, to the number of one hundred persons and upwards, armed and arrayed in a warlike manner, to wit, with swords, guns, and pikes, being then and there unlawfully, maliciously and traitorously assembled and gathered together, against our said Lord the now King, most wickedly, maliciously and traitorously did ordain, prepare, levy, and make public war against our said Lord the King.

And

And also then and there with force and arms, falsely and traitorously did employ, and caused to be employed divers persons, to the Jurors unknown, in forming, shaping and preparing divers wooden poles of a great length, to wit, to the length of nine feet, in order and with intent, that a sharp-pointed piece of iron should be there after affixed to the end of the said poles, and that divers pikes should be thereby made and constructed, and that divers other false traitors, to the Jurors unknown, should be armed with the said pikes, and being so armed should use the same in and for carrying on the said war against our said Lord the King.

And also then and there with force and arms falsely and traitorously did make and prepare, and did cause to be made and prepared, divers swords, guns, and pikes, with intent, that divers other false traitors, to the Jurors unknown, should be armed with the said swords, guns, and pikes so prepared, and being so armed should use the same in and for carrying on the said war against our said Lord the King, contrary to the duty of the allegiance of him the said *Denis Lambert Redmond*, against the peace of our said Lord the King, his crown and dignity, and contrary to the form of the statute in such case made and provided.

The prisoner pleaded *Not Guilty*,

And being asked whether he was ready for trial, answered in the affirmative.

The following jury was then sworn, after fourteen were set by on behalf of the crown, and twenty were challenged peremptorily by the Prisoner.

Robert Law,	Robert Norman,
Francis Kirpatrick,	Godfrey Byrne,
Luke Stock,	William Moore,
William Porter,	Francis Beggs,
George Thompson,	Robert Hunter,
George Wilkinson,	Fennel Collins,

The prisoner was given in charge.

Mr. TOWNSEND opened the indictment,

Mr.

MR. ATTORNEY GENERAL.

My Lords and Gentlemen of the Jury,

Gentlemen, you are called upon, I believe, for the last time this commission, to discharge towards your King and Country the very important duty which is attached to your situation as jurors. I wish I could add, that the purposes of justice have been fully satisfied, but I am obliged to say, with infinite regret, that sufficient remains behind to occupy the attention of juries upon a future occasion; and that I fear, after no very long interval, I shall be under the necessity of resuming these prosecutions; I feel however much pleasure in observing, that during the progress of this commission, the citizens of *Dublin* have with considerable alacrity discharged their duty by a regular attendance upon the court; and I am happy to find that the coolness, deliberation and justice of their decisions as jurors, have universally received the tribute of public approbation: upon the present trial you will follow the same calm and steady course which they have pursued. No former prisoner had greater occasion than the present to call upon you for a cool and dispassionate investigation, and I am sure you will cheerfully extend it to him; his peculiar circumstances require that you should obliterate from your minds the trace of every thing connected with the accusation now preferred against him, and that in deciding upon the truth of it, you should be governed only by the evidence, which shall be now produced to support it.

Gentlemen, you have heard the indictment read, by which the grievous crime of high-treason is imputed to him; and that is the first intimation which you ought to have of the charge exhibited against him. You have heard him declare, from the bar, that he is not guilty of this crime, and what he has thus said on his behalf should be considered by you as true, until satisfactory evidence shall be produced to do away the impression which the allegation of his own innocence ought to make. Upon that evidence you will judge, without any retrospective view or collateral consideration.

Gentlemen,

Gentlemen, the unfortunate prisoner at the bar is a man of some ~~fortune~~, and some education, who certainly might have turned those qualifications to a better purpose, than from our accusation against him, we conceive that he has done. I am instructed to tell you, that we shall support that accusation by adducing evidence sufficient to demonstrate, that he has been engaged in a treasonable conspiracy to wage war against the King, and to alter the laws, constitution, and government of the country by force. And that he has prepared, or that under his direction there have been prepared, pikes for the purpose of engaging in that species of treason; that he converted his own mansion house, in which he might have lived with security, protected by the laws of his country, into an arsenal, for the purpose of arming rebels to destroy those laws. If we shall produce such evidence before you; if we shew that he has embarked in such a treasonable conspiracy; if we follow it up by proving, that he converted his house into a depôt, for the reception of arms for the purpose which I have stated, I think I am at liberty to tell you, under the correction of the court, that the only difficulty which can remain will be as to the credibility of the testimony, for if you are satisfied as to its truth, nothing can be more clear, than that in point of law, the prisoner must be found guilty.

Gentlemen, it will appear that *Patrick M'Cabe*, one of the witnesses for the crown, was applied to in the evening of the 22d of July by a person of the name of *Allen*, who then lived in *College-Green*, to hold an interview with him upon the subject of the intended conspiracy. *Allen* is a gentleman of some little celebrity upon these occasions; he had the good fortune of an honourable acquittal at *Maidstone* upon a charge of high treason, and an indictment of a similar nature has been lately found against him here, which will afford him an opportunity of a second acquittal, if he shall be pleased to make his appearance. Whether he will be produced here as a witness for the prisoner, I am not at liberty to say; but after the most diligent search, he has not been found by the officers of justice. After some preliminary conversation upon the subject, which was then for the first time brought to the attention of *M'Cabe*,
Allen

Allen appointed him to call at his house at an early hour the next morning; *McCabe* accordingly called on *Allen* at six o'clock, and they both went to another person, whose name it is not necessary to mention, and then the three proceeded to the residence of the prisoner upon the *Coal-Quay* in this city. *Allen* and *McCabe* walked on towards the Canal, the person who accompanied them went into *Redmond's* house, brought him out and overtook the others in a field adjoining the Canal: there they entered into a full view of the intended insurrection; they spoke of taking the Castle; of their depôt of arms and ammunition; they consulted upon the best mode of attacking the artillery at *Island-Bridge*, they considered, whether the people were sufficiently ripe for the attempt, and some little difference of opinion having arisen upon that head, *Allen* and the prisoner persevered in their purpose; they said that the people were perfectly ripe, and that not a moment should be lost in forwarding the insurrection, which had been fixed for the hour between nine and ten that evening; in short, their treasonable discussions entered so fully and so minutely into what actually happened, that no reasonable doubt can be entertained of their privity and concurrence.

Having thus deliberated some time upon the plan, they retired to the house of one *Browne*, a publican near *Island-Bridge*, where they breakfasted. We shall be able to fortify the account of *McCabe* by producing *Browne*, who will state to you that they breakfasted at his house: they again renewed their conversation upon the intended attack, but not in the presence of *Browne*, who was a loyal man; but they walked out into his garden, and were taking views of the different places they intended to attack. Having thus in the space of the morning, furnished two opportunities of proving this treasonable conspiracy, one in the field and another at the house of *Browne*, they returned; *Allen* went one way, and *McCabe*, who in this conversation attracted the confidence of *Redmond*, accompanied him into town; the prisoner brought him to his house upon the *Coal Quay*, he rapped at the door, an old man let them in, and there *McCabe* saw two carpenters rounding pike handles,

handles, and making those kind of weapons with which most of the traitors appeared to have been armed.

If the case rested here, the evidence of *McCabe* thus corroborated, would be sufficient to convict the prisoner of the charge; but further circumstances remain to be stated, which contribute to fasten upon the prisoner the guilt, which we attribute to him. He resided, I presume, in that house, for a day or two after the insurrection, not aware of any suspicion against him: but the present Lord Mayor, Alderman *Hutton*, having during his searches on *Tuesday* after the 23d, discovered a number of pikes in a coal yard, at the back of the *Coal-Quay*, communicated the circumstance to Major *Sirr*, who finding that the yard was separated only by a narrow lane from *Redmond's* house, thought it prudent to search it; accordingly a minute search was made in the prisoner's house, and there they discovered such preparation for rebellion, as could leave no doubt in the mind of any man who saw it, as to what was the deliberate design of the proprietor. There were found several carpenters tools, benches for carpenters to work upon, several pieces of timber, pike handles newly finished, a quantity of wood prepared to be cut up, and they also discovered some of those beams, which the court has already had intimation of, hollow pieces of timber containing a number of pikes, but so constructed as to elude observation; forty pikes were found in each of these cases; various other matters were discovered, and in a part of the house, where there were a few steps leading from one room into another, upon removing the steps, a number of pikes were found, thrust in there for concealment. If any thing were necessary to substantiate the evidence of *McCabe*, who says that he saw the carpenters at work there, the circumstance of finding these articles so recently after the transaction, would be fully sufficient. What was the conduct of the prisoner upon this occasion? it would appear to be utterly impossible, that any man's house could be converted to these purposes, without his knowledge. It is probable it was not made this use of, until the very eve of the insurrection; but it could not be applied to such purposes for an hour without his privity and assent. There were no other goods whatever in the house, if goods these

these articles can be called; he did not say that his house was abused without his knowledge or consent; he did not state what had come to his knowledge upon the subject; he did not come forward and give information that might lead to a discovery; but conscious of his guilt, he fled from his house; he skulked for some days about the city, and afterwards endeavoured to escape on board the *Tarleton*, a *Wexford* vessel, bound to *Chester*.

Gentlemen, you will recollect that some four or five days after the insurrection, an order of the Lord Lieutenant and Council was issued, that no man should be allowed to leave Ireland without obtaining a passport; and strict orders were given to the collectors and other officers of the Revenue to be cautious, that no man should sail without such a protection. It happened, that this vessel being driven by distress into the Bay of *Calingsford*, Mr. *Read* the surveyor of that place, put out and enquired whether there were any passengers on board: he found there were four of them, three had regular passports, but the prisoner none; when called upon for his name, his trade, and situation in life, he admitted that his name was *Redmond*, and said that he was going to purchase coals. When he was asked with regard to his luggage, he said he had none, that he found it more convenient to travel with guineas, and was fortunate enough to have many at command. As to his pass, he said it was in his portmanteau which was washed overboard; this account with other circumstances of suspicion, not satisfying the officer, he apprehended the prisoner and brought him on shore. He remained in *Newry* some short time, made protestations of his innocence, and declared that upon writing to town, no gentleman who knew him would hesitate to send him a pass; and he requested to be detained there, until he should write a line or two to *Dublin*. Mr. *Read* was so far imposed upon as to indulge him; the prisoner accordingly wrote to Alderman *Trevor*, but received no answer, the officer had therefore intended to act upon his own suspicions and to bring him up to town, but at the moment he received an order from government to transmit him to *Dublin* without delay, the discovery that had been made in his house, having strongly corroborated the other circumstances of suspicion against him; accordingly

cordingly, he was forwarded to *Dublin*; he slept one night at *Drogheda*, perceiving that matters were beginning to grow desperate, he acknowledged, that he had no pass at all, and that the story of its being washed overboard was altogether a fabrication. In *Drogheda*, he industriously entered into these kind of conversations, which at an earlier period he must have indulged in, and which ultimately have led him into that situation in which he unfortunately finds himself. In these conversations, which are also corroborative of the evidence which will be given, he extolled the happiness of *France*, and praised the great and powerful Consul *Bonaparte*; such sentiments expressed in such a situation, are circumstances to corroborate the evidence of *McCabe*, and shew that he is not mistaken in the man, upon whom he casts the imputation of treason.

Gentlemen, the prisoner at the bar was brought to town and examined; the first question he was asked was, where he slept upon the night of the 23d of *July*, he acknowledged that he slept at his house upon the *Coal-Quay*; he was then asked where he breakfasted upon the morning of the 23d, he said he had breakfasted at his own house; Major *Sirr* found it necessary to refresh his memory, and accordingly introduced *McCabe* and *Browne* into his presence; the very mornen the saw them, he retracted his former assertion, and admitted he had not breakfasted at his own house, but at *Browne's* house at *Island-Bridge*; this false representation of himself and the immediate retraction of it, when he saw the witnesses, who could confute him, are strong in support of what will be offered by *McCabe*. I think it more material to call your attention to those circumstances of corroboration, because *McCabe* was certainly one of those unfortunate and deluded men, who were brought forward upon the fatal evening of the 23d of *July*. *Allen* appointed to meet them at the head of *Rainsford-Street*; he afterwards disappointed him, as many of their leaders did, upon discovering too late into what a forlorn and desperate enterprize they were about to embark; *McCabe* attended, but *Allen* did not; the former finding himself deceived, secreted himself for some hours, but was at length taken with a blunderbuss and some ammunition, and certainly discovered

covered under such circumstances as put him under an apprehension for his own safety ; he has since made the disclosure, which I am not so partial to him as to suppose he would have made, were it not for the apprehensions which he must have entertained for himself, but it is the only mode by which these sort of conspiracies can be discovered ; I do not desire his testimony to have weight from the good and moral character of the man ; his having embarked in treason has detracted from the credit which you would otherwise give him, but notwithstanding, if he tells you, a clear consistent story which no good subject could have it in his power to disclose ; (because it is impossible that private conversations between conspirators can be disclosed by any one but a conspirator, and therefore under such circumstances he is the best and most satisfactory evidence,) and if he shall be corroborated by other collateral circumstances, it will be sufficient to convict the prisoner ; I am not aware from the communications which have been made of *McCabe's* evidence, that you will find a syllable fall from him which we will not support in a very satisfactory manner by collateral evidence. And though I protest against the necessity of producing such minute corroborations ; yet I think upon the whole, we shall be able upon the present occasion to lay before you as complete a system of evidence as can be delivered in support of the accusation.

Gentlemen, I feel it my duty to state a further circumstance, I have to call your attention to a paper prepared by the prisoner, subsequent to his arrest.

Mr. MAC. NALLY. My Lords, I submit, that this paper should not be stated. It is a determined case, that no paper found in the possession of a prisoner subsequent to his committal can be read in evidence against him. I am prepared to argue it ; but at present I submit, whether it should be stated ; I put the objection in this shape :—This Court assigned agent and counsel to the prisoner ; in order to prepare for his defence, if he were permitted the use of pen, ink and paper, he must commit instructions to writing, in order to lay before his counsel and agent, who were to advise him in his plea, and he is at liberty to suggest such matter as he
may

may think proper for the purpose of consulting with them. If a man in this situation makes use of pen, ink and paper for that purpose, (and no man can say this paper was not for that purpose,) it would make an extraordinary precedent. I have it strong upon my recollection, that in the case of *Hardy*, three matters of evidence were offered. The first were papers found in his possession. The second were papers found in the possession of a co-conspirator. And the third was evidence of the manufacturing of pikes. Upon each of those, the court ruled, first, that as to the papers found in his possession, subsequent to his committal (here it is subsequent to indictment which is still stronger,) could not be read in evidence against him, and as to papers found upon a co-conspirator, they could be read, provided there was proof to shew, they were written before he was committed—but if not, they could not be read.

I have taken the liberty of throwing out this in the manner I have done, and submitting to the *Attorney-General*, whether he chooses to proceed, and state this paper to the Jury. If he does, I shall make such objections to the admissibility of it in evidence as may occur to me, I shall now make an apology to the *Attorney-General* for indulging me so much.

MR. ATTORNEY-GENERAL. I am sure that the interruption by Mr. *Mac Nally* arose from the necessity which he felt of animadverting by anticipation upon the evidence, before it was offered to the Jury or the Court; and of course he laboured under the disadvantage of not knowing the nature of the evidence to which he was speaking, or the object for which it was to be produced. I would be very reluctant to state any thing on the part of the Crown, unless I were previously convinced of its admissibility in evidence; and therefore, if I had the slightest doubt of the admissibility of this paper, it would be my duty to suppress it. But I offer it for the purpose of substantiating the charge against the prisoner; of having been engaged in a conspiracy to overthrow the government and constitution of the country; and I say that any paper be it written when it may, can be produced in evidence to substantiate the charge. I take the distinction to be this; that you cannot support an indictment merely by giving evidence

evidence of an overt act, committed after the indictment found. But evidence of an overt act previously committed and stated in the indictment never comes too late, and if this be not a substantive overt act of treason, but is merely evidence supplied by the prisoner, I care not when in support of the charge previously made against him, it is not too late, and such objection as is now made never was entertained, and if I mistake not has been overruled.* I can also relieve the counsel from the supposition, that this paper was intended as any part of the prisoner's brief, because it was written for the avowed purpose of being printed; it is addressed to the people at large, and contains much objectionable matter, which I do not feel myself at liberty to produce to the Court and the Jury. I will read particular passages; the prisoner may call for such other parts of it, as he thinks proper; but in compassion to him, I do not read it all, I shall refer to such part only as shews he was embarked in a conspiracy for the overthrow of the constitution; and as will tend to corroborate the testimony of *McCabe*, and the evidence which will be given of his treasonable conversations at *Drogheda*. "Who knows yet but the day may shortly arrive, when we may find in some measure fulfilled the words of the scripture;—*An eye for an eye, a leg for a leg, and an arm for an arm*. I trust in God, that in the hour of danger, you will shew yourselves Irishmen, fighting for your long-lost liberty. I beg dear countrymen, that feeling and understanding your interests, you will be gentle as lambs and watchful as lions, but above all, be united. Be mindful how you commit yourselves to any one, you don't know; do not put yourselves in the power of any one but those you know, and who have the best characters, but particularly, do not place confidence in the acquaintance of any man, when life and death is depending. When any favourable opportunity occurs, which may shortly be the case, I beg you will not do as heretofore,—take up your arms to lay them down again like a blast of wind, and then be taken prisoners and hanged like dogs; never attempt a revolution of your country, unless you are sober, steady

* Vide Lord *Holt's* opinion in *Hathaway's* case 5th, State Trials 492.

“ Ready and determined ; then you may expect to conquer and free your long-enslaved country, and be remembered with gratitude by posterity.”

This can hardly be considered as instructions for Counsel ; this idle rhapsody of being gentle as lambs and watchful as lions, did not originally proceed from the gentleman at the bar ; it appeared in that inflammatory publication *The Press*, which was circulated with great industry, amongst the weak and the credulous, by the original promoters of treason in this country. The concluding paragraph in this paper of the prisoners, you will observe was excited by the appearance of *McCabe* as a witness against him, and is strong to corroborate his testimony, “ do not place confidence in the acquaintance of any man, when life and death is depending,” the prisoner had a confidence in *Allen*, and regrets that he confided in *McCabe*, who was only known to him as the acquaintance of *Allen*.

I do not wish to trouble the Court or the Jury with any more of this rhapsody ; the part I have read clearly corroborates the testimony of the accomplice, it goes directly to shew, that the prisoner was embarked in the conspiracy, and that he is one of those insatuated men, who do not repent of the barbarities which have been committed, or lament that arms were taken up ; but who rather regret the rapidity with which they were abandoned, and he calls upon the people, when the opportunity offers, which he hopes may be soon, not to abandon their arms again.

Gentlemen, I feel it would be a waste of public time to trespass longer upon your attention ; the case is simple and clear, and if I am not much deceived, evidence will be offered which will be fully satisfactory to your minds ; but upon the whole, you will exert your own judgments, and form your own conclusion ; I do not see what the defence of the prisoner may be, but you will pay it all due attention. If upon the whole, you are satisfied the charge is established, his situation in life, which is above the lower orders of the people, is a considerable aggravation of his offence, and as it will make his punishment less painful to you, so I trust it may make his example more salutary to others.

Edward

Edward Wilson, Esq.

Examined.—Gave the same evidence as upon the former trials. *Vide Kearney's case, page 37.*

Not cross-examined.

Wheeler Coultman, Esq.

Examined.—Gave the same evidence as before. *Vide same case; page 48.*

Not cross-examined.

Thomas Rice

Examined.—Proved the proclamation as before. *Vide same case; page 53.*

Not cross-examined.

Stuart H. Douglas, Esq.

Examined.—Gave the same evidence as formerly. *Vide same case; page 59.*

Not cross-examined.

Patrick McCabe

Examined by Mr. ATTORNEY-GENERAL.

Q. Do you recollect the insurrection which took place upon the 23d of July?

A. I do, Sir.

Q. When did you first hear that such a thing was intended?

A. I knew the real certainty of it the Friday before.

Q. About what hour?

A. Four o'clock in the evening.

Q. Pray who gave you the information?

A. A gentleman came to inform me of it.

Q. Did you wait upon him afterwards?

A. I did.

Q. You may mention his name; it is no great secret?

A. It was Mr. Allen.

Q. When did you see him next after that evening?

A. On the morning of Saturday.

D

Q. About

Q. About what hour?

A. About half after six.

Q. Did you and he go to any place that morning?

A. He and I, and another gentleman, went from *College-green* to the *Coal-quay*.

Q. What did you do there?

A. The gentleman went into an entry for a gentleman he said was there.

Q. Where did you and *Allen* then go?

A. We walked towards *Bloody-bridge*.

Q. Where did ye stop?

A. We rested there for the gentlemen some time.

Q. Did the gentlemen come to you?

A. I really believe they passed us without observing us.

Q. Where did you see them next?

A. I saw them in *James's-street*, plain.

Q. Look at the prisoner at the bar?

A. Yes, I know him.

Q. Was he one of those gentlemen?

A. He was.

Q. Did he and the other gentleman join you and *Allen*?

A. No, they went on one side of the canal, and we on the other.

Q. Where did ye all meet?

A. We four met in a field on one side of the second lock of the *Grand Canal*.

Q. Do you recollect what the conversation turned upon, when ye were assembled?

A. It turned chiefly upon what was to happen.

Q. Did they say what it was?

A. That there was a rising of the people to take place that night.

Q. Was that said in the presence of the prisoner?

A. He was one of the party that was saying it, himself and Mr. *Allen*.

Q. Do you recollect what they said the people were to do: did they mention any point of attack?

A. Yes, the point we were to attack was the barrack at *Island-bridge*.

Q. Is that the *Artillery barrack*?

A. Yes.

Q. Did they speak any thing of arms?

A. Yes, they said arms were provided for the purpose. Mr. *Allen* told me there were arms.

Q. Had

Q. Had you any conversation about His Majesty's castle?

A. There was; but we were not to have any thing to do with it. Other parties were to go there.

Q. Mention what the conversation was about the Castle?

A. Why, the conversation was no further than to mention that there were parties to take it.

Q. Was any part of it considered weaker, or more open to attack than another.

A. Yes, the lower part towards *Ship-street* gate. I cannot say whether the prisoner heard that, because *Allen* told that to me.

Q. Was there any conversation about the magazine in the *Park*?

A. Yes, that it was to be attacked.

Q. Do you know what party was to attack that?

A. I believe part of the party that I was to assemble with, was to attack it.

Q. Had you any conversation respecting men from the country?

A. Nothing more than that we expected men from it: from the outlets between that and *Clondalkin*.

Q. What did you expect them for?

A. To assist us.

Q. Had ye any conversation about what part of the *Artillery* barrack ye would attack?

A. Yes; in upon the large gate.

Q. Did they state what the object was of attacking the barrack and the magazine?

A. In order to get cannon and ammunition.

Q. Do you recollect what hour they mentioned the attack was to be?

A. As high as I recollect between nine and ten o'clock.

Q. Where did you breakfast that morning?

A. We breakfasted at *Mr. Browne's*, the corner of the lane, next the bridge.

Q. Who breakfasted there?

A. The three persons I have been speaking of and myself.

Q. Had you any conversation there about the attack?

A. It was chiefly the conversation.

Q. (*By the Court.* Was there any other person with you in the field?

A. No, my Lord.)

Q. Was there any difference of opinion, with regard to the propriety of the attack?

A. Yes,

A. Yes, I recollect the other man seemingly not so much inclined to begin, as *Allen* and the prisoner.

Mr. CAMPBELL. The witness should state the conversation. What *seemed* to him is not evidence.

Mr. ATTORNEY-GENERAL. Did the others give any reason for beginning?

A. Yes; *Allen* said, if they did not begin then, perhaps they would not get the people so ripe, as they were then.

Q. Do you recollect what the man said, who seemed rather to wish to postpone it?

A. He said he would not be positive, till the middle of the day, when he would get information. But he expressed his doubts—he seemed not so willing, and I judged him to know more of the matter, than either the prisoner or *Allen*.

Q. After breakfast did ye pass any time about the house or garden?

A. Not in the garden; the prisoner and I went down to where there was a fisherman.

Q. But before that, did you walk about the house?

A. No.

Q. Where then?

A. He went down to a lane, where there was a fisherman, and the prisoner spoke to him—what they said, I do not know.

Q. What was done then?

A. *Allen* and the other man went to *Babb-bridge*, and the prisoner and I overtook them there.

Q. What became of the party?

A. *Allen* and the other staid a while in the lane near *Mount Brown*, and the prisoner and I went towards his place.

Q. Before breakfast did you walk about the garden?

A. I did not walk about; but the others were at the house before me; we saw them in the dining-room.

Q. To what place did you proceed?

A. We came into town, and some acquaintances stopped the prisoner, and I came on to his place at the *Coal-quay*.

Q. Did he join you there?

A. At his own house?—No; I did not wait till he came.

Q. What did you do?

A. I went into an entry and rapped at the door, and an old man opened it.

Q. Was that the same entry into which one of the party went in the morning early?

A. It was.

Q. What

Q. What happened after you rapped at the door?

A. A man opened the door, and I went in.—He asked me, where the prisoner was.—I told him he was coming off after me.

Q. Did you see any work going on in the house?

A. I did:—I saw two lads taking the squares off the handles of pikes.

Q. Did you see many pike handles?

A. I think there was in and about a score.

Q. You left the house before the prisoner returned?

A. I did.

Q. When did you see Allen afterwards?

A. At three o'clock.

Q. Did you apply to your employer that evening for your week's wages.

A. I did.

Q. Did you get your wages?

A. I did, what was coming to me.

Q. Did you make any application to Allen?

A. I said, I would rather go to the country and leave the money with my wife.—He asked me how much I earned, and I said, "a pound a week."—He desired me to call at three o'clock, and he would give me a guinea, and not to lose time about it.

Q. Did he give you the guinea?

A. He did.

Q. That was about three or four o'clock?

A. It was three o'clock.

Q. Did he give you any other token?

A. He desired me to call at six.

Q. Did he give you any thing then?

A. He gave me a blunderbuss at six.

Q. Did he tell you where to meet him?

A. Yes, he asked me did I know where was the best place to meet?—I said, I considered Rainsford-street the best, as most convenient to the Canal.

Q. Did he promise to meet you there?

A. He did.

Q. Did Allen meet you there afterwards?

A. No, Sir; he did not.

Q. You and some others assembled there?

A. I went there by myself.

Q. Have the goodness to tell the Jury, as well as you can, what took place after you went to Rainsford-street with the blunderbuss?

A. I

A. I shall, sir.—After I went to *Rainsford-street*, I remained there for some time, expecting *Allen* would call upon me. I went into a public house to get some porter, and I came out in fourteen minutes, when a multitude of persons had assembled from the Canal and *Somerset-street*. They got round me and said, I should go along with them. I said, “I had no ammunition for the blunderbuss,”—and a young man standing convenient to me, said, “he had ammunition enough,” and he handed me a little bundle made up of ball-cartridge.—Then there were some of the party cried out, and wanted to know, where they would get arms. A man at a distance cried out, “come along with me, and I will get you arms enough.” We proceeded down *Marshall-Lane*, and turned to the right which leads into *Dirty-Lane*, where there was a number of pikes, I cannot describe, there were so many. After every person that came took up arms, we went into *Thomas-street*, and there, either before, or after us, I do not know which, a carriage was stopped.—As I got up to it, there was a box or a trunk taken out, and two or three of them with pikes were smashing the lid. I called out to them, “It was not for plunder we were looking,” and desired them not to break it. At this time, the gentleman who was in the carriage, made a race towards the church, and I said, he should be brought back, and he was, and I told him, no injury should be done to his property. Whether the things were put into the carriage again, I do not know.

Q. To what place did the party proceed from that?

A. Down *Vicar-street*, and when I came up, they were attacking the watch-house.

Q. Where did you go afterwards?

A. We proceeded towards *Francis-street*.

Q. Did you meet with any opposition?

A. Afterwards we went down *Plunket-street*, and through *Patrick-street*, we stopped at the fountain in *Kevin-street*, for a few minutes.

Q. Were you fired upon in the course of the night?

A. We were.

Q. Where?

A. At the lower end of *Francis-street*, by the *Coombe Guard*.

Q. What became of the party?

A. After receiving the fire, they dispersed up *Francis-street*.

Q. Was

- Q. Was you taken in the course of the night? I
A. I was taken in *Francis-street*.
Q. How soon after the mob dispersed?
A. In about an hour and a half after.—I made the best
of my way to *Pimlico*, and took shelter there, till such time
as I considered the streets safe, and then made home.
Q. You were arrested there?
A. I was, at the door of the house I lodge in.
Q. Do you recollect ever having shewn that house upon
the *Coal-Quay*, in which you were the morning of the 23^d
July, to Major *Sirr*?
A. I did.
Q. Did you shew him the same house in which you saw
the pike handles making?
A. I did, the very same.

Cross-Examined by Mr. CAMPBELL.

- Q. I believe, Sir, you are an old and experienced
traitor?
A. I knew something of the business which was going on
for some time.
Q. Are you not an old and experienced traitor?
A. I do not know what you mean by *traitor*.
Q. Have you not been acquainted in the course of five
years, with two rebellions?
A. Only one—there was but one, five years ago.
Q. Was there not another in 1803?
A. There was.
Q. Were you not an active partner in both?
A. I do not consider myself the worse for it.
Q. Were you not in the rebellion of 1798?
A. I knew there was such a thing.
Q. Was that all you knew of it?
A. I was in no engagement, but I knew of it.
Q. Were you not sworn an United man?
A. I was.
Q. Did you not hear of the transactions which took
place?
A. Several, I did.
Q. Were not the most dreadful atrocities and murders
committed?
A. I cannot say.
Q. What answer do you give?

A. I do

A. I do not consider it murder, where one man fights against another.

Q. Did you not hear, that during the rebellion of 1798, many barbarous murders were committed?

A. I heard so, but I saw none of them.

Q. Do you believe it?

A. I heard so.

Q. Do you believe it?

A. Just as I heard it said by others.

Q. Were there not indiscriminate murders of men, women, and children?

A. I heard so.

Q. Did you think it fair to put them to death?

A. I do not think it fair to put women and children to death.

Q. Did you ever hear of *Scullabogue*?

A. I often heard of it.

Q. Were not many men, women and children burned there?

A. I did not see it.

Q. Did you hear of it?

A. I did hear they were burned.

Q. You heard of many bad murders committed in that rebellion?

A. I did.

Q. With a knowledge of them, did you not join in the rebellion of 1803?

A. I did, when I was asked.

Q. And with your eyes open, with a knowledge of the murders which were committed in 1798, you engaged in another?

A. I did not see any murders committed.

Q. But you entered into another rebellion upon the 23d of July?

A. I did, when they asked me.

Q. For no other reason?

A. No.

Q. How did it happen that they asked you to enter into it?

A. I was asked by the young man, who knew me before.

Q. Was it because they knew your murderous principles?

A. No, they did not talk of murder: no man was to be killed; but in fair action.

Q. You

Q. You saw the mob break open the box, and you cried out, it was not for plunder you came?

A. I did.

Q. You meant by that, that you felt a horror at plunder?

A. I did not like it.

Q. But you did not feel equal horror at murder?

A. I would, a great deal more, if it was not in fair action.

Q. Did you not believe that the pikes which the mob got, were intended for the purposes of murder?

A. The purposes of murder!—The purpose to gain their liberty, as we call it.

Q. But how could they do that, without the commission of murder?

A. I do not consider it murder, when one man fights another.

Q. Do you not think it murder, when a party of ruffians meet a carriage with unarmed travellers and kill them?

A. I do.

Q. Must not such things be committed by rebels?

A. It so happened.

Q. From what you heard, did you not think it likely that such things would happen?

A. Very likely.

Q. You desired the people to leave the box?

A. I did.

Q. Had you a commission that night?

A. I had no commission.

Q. Then how do you explain the direction which you gave?

A. When I was with them they were asking, "who was to head them," and no one appearing, I said to the gentleman he should not be molested.

Q. Did not you say that, because you had some influence?

A. It so happened.

Q. You were armed with a blunderbuss—others with pikes?

A. Yes.

Q. How came you to be armed with a blunderbuss?

A. Because it was given me.

Q. Were you a serjeant?

E

A. I was

A. I was not.

Q. Had you any commission whatever ?

A. Not the least was given to me by any person.

Q. Did you take any that night ?

A. Not more than I told you.

Q. On Friday you first heard of the rebellion ?

A. Of the actual rising.

Q. When did you hear of the intention ?

A. I heard of it often, and that there would be such a thing.

Q. When did you hear from any of the party whom you credited, that it would take place ?

A. Not till Friday.

Q. Were you ever in the dépôt ?

A. No.

Q. Explain then, how is it, that you, who knew nothing of the rebellion till Friday from authority, were instantly admitted into all the secrets and confidence of the conspirators ?

A. Allen knew me before.

Q. He knew that your principles made you a fit person ?

A. I cannot say, but it was.

Q. Do you not believe, that the man who would engage in a conspiracy, which, for ought he knew and had reason to expect, would be attended with murder, was an extremely likely person to commit perjury ?—I want to know your ideas of morality,—do you not believe that the man who would commit murder, would commit perjury ?

A. I do not say but he would.

Q. What were your motives for engaging in the rebellion ?

A. The motive I had, was to be along with the people.

Q. Is not your motive for giving evidence this day, to save your own life ?

A. Certainly, I cannot deny such a thing as that,—but I do not know whether it will or not.

Q. Have you not hopes that it will ?

A. I have a hope of such a thing, as it has been usual with government to act so ; but as to know what they will do with me, I know no more than the child unborn.

Q. Has any promise of any sort been made to you ?

A. No.

Q. At

Q. At the time you saw the two men making pike handles, the prisoner was not there?

A. No, he was not.

Q. Your course of life has been this :—you commenced Traitor and Rebel, and now you are an Informer?

A. I cannot say.

Q. Where did you come from, this day?

A. I came from the Castle-Yard.

Q. Of your own free choice?—You are at liberty?

A. No, not at perfect liberty.

Q. Do you not conceive you are a prisoner this moment?

A. I do.

Q. And after going off this table, you will be also a prisoner?

A. Yes.

Q. Have you formed any kind of guess, what will be your future destination?

A. I have not.

Nelson Browne, Examined by Mr. MAYNE.

Q. Where do you live?

A. In *Island-Bridge*.

Q. Where did you live upon the 13th of *July* last?

A. In *Island-Bridge*.

Q. You keep a public house there?

A. I do, Sir.

Q. Do you recollect whether any one breakfasted at your house upon the 23d of *July*?

A. I do.

Q. It became a remarkable day afterwards?

A. Very much so, indeed.

Q. Did you see the last witness who was upon the table?

A. I did.

Q. Was he at your house?

A. He was.

Q. Did he breakfast there?

A. He did.

Q. How many were there?

A. Four in number.

Q. Look at the prisoner, was he there?

A. He was one of the four.

Q. Did he breakfast there that morning?

A. He

- A. He did.
Q. With *M^cCabe* and two others?
A. Yes.
Q. Did you know their names?
A. Only by hearing them since; *M^cCabe*, the witness, and the prisoner *Mr. Redmond*.
Q. Have you since seen the other two?
A. No.
Q. But the witness and the prisoner, with the two others breakfasted at your house the morning of the 23d of July?
A. They did.

Cross-Examined by Mr. MAC NALLY.

- Q. You read the public papers sometimes?
A. Pretty often.
Q. And the magazines?
A. Sometimes.
Q. You read of the last rebellion?
A. I did.
Q. Did you ever hear of the burning at *Scallabogue*?
A. I think I heard of such a thing.
Q. Would you believe any man in this kingdom, saying that he never heard of such a thing?
A. Upon my word, I do not understand what you are saying.
Q. Do you believe the sun is shining?
A. Yes.
Q. Would you believe any man, who would swear it was not?
A. I would not.
Q. Did you hear of the rebellion of 1798?
A. Yes.
Q. You say you heard of that burning at *Scullabogue*?
A. Yes.
Q. Would you believe that a man swore true, when he said, he never heard of the burning at *Scullabogue*?
A. I would suppose that every man swore true.

Elizabeth Browne, Examined by Mr. TOWNSEND.

- Q. You are the wife of *Mr. Browne*, the last witness?
A. Yes.

Q. Do

Q. Do you remember any persons having breakfasted at your house, on the morning of the 23d of July last?

A. I do.

Q. See if you know Mr. Redmond, who is upon trial?

A. I cannot say.

Q. How many were in the party, who breakfasted in your house?

A. Four.

Q. Did you see the witness, McCabe?

A. I did not take particular notice of their faces,—I was in the bar.

Q. Did any other company of four people breakfast there that morning?

A. No, sir.

Q. Did you observe any of these four go to any place behind the house?

A. I did.

Q. How many of them?

A. Two of them.

Q. What were they doing?

A. They were looking up and down the yard.

Q. Was it in a careless or in an attentive manner?

A. I cannot tell.

Q. At the time did it strike you as particular?

A. Two of them went at the front, and they parted.

Not cross-examined.

Thomas Morgan, Examined by Mr. ATTORNEY-GENERAL.

Q. Where do you live?

A. At Island-Bridge.

Q. What is your occupation?

A. A Fisherman.

Q. How long have you been acquainted with the prisoner, Mr. Redmond?

A. Why, I believe four or five years back, going back and forward.

Q. Is that the person at the bar?

A. It is.

Q. Do you recollect meeting him any where upon the Quays, two or three days before the insurrection?

A. I do.—I recollect every day almost seeing him, receiving money for coals, and going in my boat to Poolbeg.

Q. How

Q. How far do you live from the *Artillery-Barrack*?

A. Not a quarter of a mile, only at the end of the street.

Q. Had you any conversation with the Prisoner about those barracks, any time before the rebellion?

A. The conversation I had was upon a plank, going off in the boat waiting for the tide,—he called to me and asked me where I was going,—I told him, and I saw him again upon my return, and he asked me, what luck I had in fish,—he then began to speak,—“That is a fine barrack you have at *Island-Bridge*?—There are a great deal of men in it?”—“I do not know,” says I,—“There are many, but as to the complement, I do not know.”

Q. It seems he had a curiosity to know something about it?

A. I cannot say for that,—I only tell you what I heard him say.

Q. When did you see him, after that?

A. I saw him at *Island-Bridge* on the morning of the 23^d of July.

Q. Do you know where *Nasen Browne* lives?

A. I do, well,—There are very few mornings but I am there.

Q. Did you happen to meet Mr. *Redmond* there that morning?

A. I did, sir.

Q. Did he shew any curiosity about the barrack, that morning?

A. Not to my knowledge, he did not.

Q. Had you any conversation with him, when you saw him there?

A. There were a good many of the fishermen there.—We generally go there to get our morning.—He asked me for a salmon.—I said, I had not one.—He said, he wanted one for a customer of his, and he would be injured if I did not get him one.—There was one upon the hatch which had been sold, and *Browne* desired me to give it to the gentleman, if he gave more for it.—But I said I would not, but would get him one in the course of the day, and I never saw a sight of him from that time till this day here.

Cross-Examined

By Mr. MAC NALLY.

Q. You have known the prisoner four or five years?

A. I have—I might say more.

Q. He is a very young man?

A. Yes :—he used to come down with parties of pleasure in the boat.

Q. Was he always a quiet well-conducted man?

A. I never saw any thing else.

Q. Did he ever attempt to swear you to become a rebel?

A. Me!—no such thing.

Q. He had a conversation with you about a *salmon*, but he said nothing about a *pike*?

A. No.

Q. He knew you were connected with a number of fishermen?

A. He did—he saw them.

Q. He never made any attempt upon your loyalty?

A. He never did.

James Read, Esq.

Examined by Mr. ATTORNEY-GENERAL.

Q. Where do you reside?

A. At *Carlingford*—I am Surveyor of that port.

Q. Do you recollect having seen the prisoner, Mr. *Redmond*, before?

A. I do.

Q. Where did you first see him?

A. I saw him first at sea, on board *The Tarleton*, of *Wexford*, *James Murphy*, Master.

Q. Upon what day?

A. The first of *August*. I was on duty in the bay, when I saw the brig and hailed her. They told me her name, and that she was in ballast from *Dublin* to *Chester*. I asked, had they any passengers? They said, there were four upon the quarter-deck. I thought they might be persons making their escape from *Dublin*, and desired the Coxswain to lay me along-side. I saw three passengers

gers and the prisoner at the bar. I asked them, if they had passports? as I had decided directions to take up all persons who had not. Captain *Fleming* and his wife, two of the passengers, shewed me their passport. Mr. *Peter-son*, another passenger, shewed me his. I asked the prisoner if he had one? He told me he had not. He said his pass was in his trunk, and that it was washed overboard at sea. I told him it was very odd, that he should have his pass in a trunk, while the rest of the gentlemen had theirs in their waistcoat pockets. I then asked him for any letter or paper to shew who he was. He said, he had none—he did not think it necessary to carry any thing but *guineas*, and he had a good many of them; he was going to *Chester* to buy coals.”

Q. Did he tell you when he sailed from *Dublin*?

A. I think he said it was the *Friday* before. I took him on *Monday*. They had bad weather, and were driven into *Carlingford* in distress. He said, they were very near being lost.

Q. You then took him to *Newry*?

A. I took him on board the *Glasgow* man of war, where I got a serjeant and a party of marines, and brought him on shore.

Q. Did he express any desire to write to any person?

A. He told me he would write to Alderman *Trevor*, and was certain of a pass by return of post. He had a velice, which we examined—there was nothing in it but a waistcoat. We waited two posts for a passport—none came—but there came orders from Government to bring him to *Dublin*, and I escorted him in a carriage to town.

Q. Did you stop at *Drogheda*?

A. I did—I gave him to General *Archer*, and stopped there. At eleven o'clock he desired me to stay in the town with the prisoner, and he also desired a serjeant and two Highlanders to stay up also.

Q. Did the prisoner talk much upon public subjects?

A. Very much, till I stopped him.

Q. What induced you to stop him?

A. I thought it was not proper before the guards—he talked of *Bonaparte*, and said he was a humane man. I asked him how he could say that, after massacring the *Turks* at *Jaffa*, and poisoning his own sick soldiers in the hospital? He made no answer, but asked me to argue with

with him like a *Philosopher*. I brought him to *Dublin*, and gave him to Major *Sirr*.

Q. Did you stop any where between *Drogheda* and *Dublin*?

A. Yes; I breakfasted with the prisoner at the *Man of War*.

Q. Did you stop any where else?

A. No.

Major Sirr,

Examined by Mr. MAYNE.

Q. Were you at any house upon the *Coal-quay* some time ago, upon any business?

A. I was, on *Tuesday* after the insurrection, as well as I can remember the day.

Q. Pray, how were you led to that house?

A. In the morning early, I received information of pikes being in the *City Coal-yard*, and that I could see them from Alderman *Hutton's* warehouse in *Winetavern-street*. I went there, and could see them. I brought a party into the yard, and found the pikes, a considerable number of them;—they appeared as if they had been thrown over the wall into the yard. After taking them away, I was joined by the present Lord Mayor, Alderman *Hutton*, who assisted me, and who considered it would be well done to search in the neighbourhood.

Q. Did you search further?

A. In the alley leading from the coal-yard to the quay, I perceived a house shut up—the back-door opened into a yard belonging to it, which led into the lane. I surrounded the house, and broke in the door from the lane, and entered the yard. There was a back-house, or stable, with a loft over it, and had the appearance of carpenters being at work there—some carpenters tools were there.

Q. Do you know *Mr. Cabe*, who was examined here as a witness?

A. I do.

Q. Did you ever see him at that house?

A. I did.

Q. Did he point out any house there as the prisoner's house?

F

A. He

A. He did—that very place.—In that stable or back-house, were found some bayonets and swords under the shavings, and some pieces of timber as if for pike-poles, but not rounded.

Q. What length were they ?

A. Ten feet.—We went into the house—there were several yeomen with me.

Q. Where did the front of the house open to ?

A. To the Coal-quay.—The yeomen discovered a parcel of pikes under the floor, at the back part of the house. There were two steps from that room into the shop, and the steps being removed, a great number of pikes was found concealed under the floor.

Q. Were they mounted ?

A. They were, quite ready for service.

Q. Is there any entry at the front of the house ?

A. There is a door opening into the entry—part of the passage is covered. The house, I think, is No. 14, on the Coal-quay. In the shop there were three beams lying on the floor—they were seemingly beams—large pieces of timber. I observed some nails along the edge of the timber, and upon opening, found they were large cases containing pikes. There were either three or four of these cases—three certainly—they were formed so as to appear like beams of timber : they were made of the outside slabs of beams put together, so as to appear like beams ; I considered them at first as solid timber.

Q. Were there any goods or articles of trade in the shop ?

A. No.—These seemed to me to be the entire goods of the place.

Q. How many pikes were there in each of these cases ?

A. About forty.

Q. Were they ready mounted ?

A. Some of them were not—but most of them were.

Q. Did you see any carpenters' tools there ?

A. Yes—I saw planes and chisels, and such kind of things.

Q. Did you see the prisoner *Redmond* shortly after ?

A. He was brought a prisoner to my office in the Castle-yard, on the 5th of *August*.

Q. By Mr. *Read*.

A. Yes.

Q. Did

Q. Did you ask the prisoner any particular question?

A. I asked him where he lived.

Mr. MAC NALLY. Did you take it down in writing?

A. I did.

Q. You have that paper?

A. I have.

Q. You are a magistrate of the county of *Dublin*?

A. I am.

Q. Did you examine him judicially?

A. I considered I was doing my duty as I thought.

Q. Did you take it as an examination?

A. I did not take it as an examination; it is a mere memorandum of what he said.

COURT. Which do you prefer—to have the paper read, or the evidence to be given by the Magistrate?

Mr. ATTORNEY-GENERAL. The prisoner may have the paper read, if he requiaes it.

Mr. MAC NALLY. The best evidence should be given. Parol evidence is never preferred to written evidence. Lapse of memory and other things makes the former fallible.

Mr. MAYNE. Is that paper in your own hand-writing?

A. It is.

Q. Does it contain the account the prisoner gave of himself?

A. It does.

Q. Read it.

Major Sirr then read the paper:—

“ The prisoner said, he was in his house, No. 14,
“ Coal-quay, upon Saturday night the 23d of *July*—and
“ slept at home—says he breakfasted in his own house on
“ the 23d of *July*—did not breakfast with any one, or
“ any where else—remained at home that morning till ten
“ or twelve o'clock, and then went to *George's-quay*, and
“ was on board the *Derwent*, Captain *Woodward*, Master
“ —sailed on *Friday* in the *Tarleton*, bound for *Chester*—
“ put into *Newry*, in stress of weather, and was made
“ prisoner for not having a pass—that his trunk was
“ washed overboard—mentions he set his house to one
“ *Costigan*, who was to, set up in the Grocery business—
“ he

" he gave him five guineas earnest, and was to give
 " 100l. fine and forty guineas a year. Leases were not
 " concluded, nor did he know where *Coffigan* was, nor
 " his Christian name—that his sister was married to
 " one Mr. *Hatchell*—that Surgeon *Redmond* is not a rela-
 " tion—was not at his house when the disturbance took
 " place in *Thomas-street*—thinks he dined abroad in *Ship-*
 " *street* on the 23d—no person was present when *Coffi-*
 " *gan* took the house, but *Coffigan* said he lived at
 " *Ringsend*, and wished to live in *Dublin*. *Browne* and
 " *McCabe* being brought into the presence of the prisoner,
 " both declared he breakfasted at *Island-bridge*. Prisoner
 " acknowledges he breakfasted with *McCabe* at *Island-*
 " *bridge*."

Q. That paper does not contain a declaration made by the prisoner, but is rather a statement of what passed.

A. Yes.

Q. Then you did bring *McCabe* and *Browne* into his presence?

A. Yes.

Q. And upon their appearing he acknowledged he breakfasted at *Island-bridge*.

A. He did.

Q. He said, he slept at his own house, No. 14, *Coal-quay*, on the night of the 23d of July?

A. He did.

Cross-Examined by Mr. CAMPBELL.

Q. You said, that it was in consequence of information given by a yeoman, you went and found these things?

A. It was.

Mr. Campbell. I will not trouble you with any further question.

Q. (By the court. Did the prisoner mention any person from whom he had received a pass?

A. No, my Lord, he did not.)

Andrew Whelan,

Examined by Mr. TOWNSEND.

Q. You are one of the attendants of the gaol of Newgate?

A. Yes,

- A. Yes, Sir.
- Q. Look at Mr. Redmond, the prisoner?
- A. I know him—I attended him.
- Q. Did you, during your attendance, see him write any thing?
- A. I did see him write at a table.
- Q. Not long since?
- A. At different times.
- Q. Did he give you any part of his writing?
- A. He did.
- Q. How long ago?
- A. About a fortnight.
- Q. Did you hear him say any thing about it?
- A. No—not distinctly—the Sheriff came to the prison and spoke to some other man, and then sent for me—just at that time he gave me the writing.
- Q. You say you got a paper a fortnight since?
- A. I did.
- Q. Did the prisoner say any thing about it?
- A. He asked me afterwards what I did with it. I told him it was safe—it was burned.
- Q. What did he say about it?
- A. He said, he wished it was in print.
- Q. To whom did you give it?
- A. To Dr. Archer.
- Q. How soon?
- A. In ten minutes.
- Q. Did you give him the same paper, which the prisoner gave you?
- A. I did—all I got.

Cross-Examined by Mr. MAC NALLY.

- Q. You attend in the gaol?
- A. I do.
- Q. What is your occupation?
- A. Superintending prisoners under the directions of the Physicians and Surgeons.
- Q. Did you sleep in the room with the prisoner?
- A. Yes.
- Q. Did you not take paper from under his bed?
- A. No, he gave it into my hands.
- Q. Did you ever see him before he was a prisoner?
- A. No.

Q. Were

Q. Were you placed in the room to watch him

A. Yes.

Q. How long had you been in the room with him?

A. A month last *Monday*.

Q. How many nights had you been in the room before he gave you the paper?

A. About fourteen.

Q. Then I suppose he had formed a confidence of you, that he gave it to you—did he desire you to print it?

A. No.

Q. What was it you said about printing?

A. He said, he wished it was in print—but not at the same time when he gave it to me.

Q. When was it he said that?

A. When he was writing it the evening before. He gave it suddenly to me, the next morning.

Q. Did you not think it extraordinary, he should give it you?

A. As I was about him, he thought I would not damnify any thing.

Q. Or betray him?

A. I do not doubt but he thought so.

Q. Were there not three other persons in the room?

A. Two mostly.

Q. Were there not three every night?

A. For three weeks back.

Q. Who was in the room when he gave the paper to you?

A. No one, but *Fox*, who was called down to be examined and I was left in the room.

Q. (*By the Court.* To be examined about what?

A. To be asked about the prisoner writing. There was some information about the prisoners writing, and the sheriff threatened to send *Fox* to the *Prevôt*, if he did not tell the truth.)

Q. Was there an examination every morning?

A. No.

Q. Was there any thing said when he was deranged?

A. He was deranged for some time.

Q. Was he not beside himself when he trusted you with the paper?

A. I have no reason to think so.

Q. Was

Q. Was he in his senses, when he gave you the paper?

A. I think he was.

Q. Did you read it?

A. No.

Q. Then you do not know, whether it is the raving of a madman, or the writing of a man in his senses?

A. I cannot tell, for I had it not in my possession many minutes, I had been ordered to keep any paper I found, for the keeper of the prison.

Q. Was not the prisoner prohibited from pen, ink and paper?

A. He was ordered them by government.

Q. Was he not deprived of them afterwards?

A. He was.

Q. He gave you a letter?

A. No, it was no letter—it was neither folded, nor sealed.

Q. Was he in an ill state of health?

A. He was in an ill state—but out of danger.

Q. (*By the Court.* You say you saw him write at a table, and that he said he wished it was printed; how can you swear that was the same paper he gave you?)

A. I do not say that—but I say, that the same paper he gave me, I gave to Mr. Archer.

Q. How long after the conversation about the printing, did he give you the paper?

A. The next morning.)

Mr. ATTORNEY GENERAL. Your Lordships will see from the paper, which we offer in evidence, that it was intended for printing—it is paged, and the prisoner contrived to make away with thirteen pages; the work begins with the 14th page when we got it.

Rev. Foster Archer,

Examined by Mr. ATTORNEY GENERAL:

Q. Have you seen that paper before? (*producing a paper to the witness.*)

A. I have.

Q. Who gave it to you?

A. Andrew Whelan—the last witness.

Q. You are a clergyman and inspector of the gaol?

A. Yes.

Mr.

Mr. MAC NALLY. I shall not trouble the Court, if they have made up their minds upon the objection which I offered. I have felt the distinction which was taken between papers delivered by the prisoner himself, and papers taken by fraud or force, from him. I made the objection upon the first ground.

Extracts from the Proclamations were then read, as in the former cases. *Vid.* No. I. *Kearney's Case*, page 54.

An extract was read from the paper given by the prisoner to *Andrew Whelan*, and identified by Mr. *Archer* :
 “ Who knows yet but the day may shortly arrive, when
 “ we may find in some measure fulfilled the words of the
 “ Scripture, *An eye for an eye, a leg for a leg, an arm*
 “ *for an arm.* I trust in God, that in the hour of dan-
 “ ger, that you will shew yourselves Irishmen, fighting for
 “ your long-lost liberty. I beg, dear countrymen, that
 “ feeling and understanding your interests, you will be
 “ gentle as lambs and watchful as lions; but above all
 “ be united. Be mindful, how you commit yourselves
 “ to any one you don't know—do not put yourselves in
 “ the power of any one but those you know, and who
 “ have the best characters; but particularly, do not place
 “ confidence in the acquaintance of any man, when life
 “ and death is depending. When any favourable oppor-
 “ tunity occurs, which may shortly be the case, I beg
 “ you will not do, as heretofore,—take up arms to lay
 “ them down again like a blast of wind, and then be
 “ taken prisoners and hanged like dogs.”

Case closed on behalf of the Crown.

Mr. MAC NALLY.

My Lords and Gentlemen of the Jury,

The ATTORNEY-GENERAL commenced his address on opening this cause, with telling you, that you ought not to advert to the former verdicts of conviction, by other Juries, although they gave the highest satisfaction to the public and the justice of the country.—Gentlemen, when I cite the position of that learned Gentleman, I do not pretend to cite his words, but the substance of what he

he said.—There were two of those verdicts, as he may remember, were verdicts of acquittal—and I trust, this will be a third—because it is not your duty as Jurors to be vindictive—neither is it your duty to advert to any verdict whatsoever; and even if you could do so, it would be your duty, not to permit such verdict to have the slightest influence upon your minds, unless you had the whole of the evidence before you upon oath, which the former Jury had received and decided upon; and then your decision would be founded, not upon the former verdict, but upon the evidence.—Gentlemen, if you had now in evidence before you, the facts upon which former Juries found their verdict, it would be beneficial to my client, for you would be able from that evidence to discover such a decided difference between those cases already tried, and the case of the prisoner now at the bar, as would most probably, and I trust, in the event will, entitle him to a verdict of acquittal. I rest my presumption of acquittal on this fact—that in those former cases, there was evidence given of horrid atrocities—atrocities of a peculiar, and desperate and sanguinary nature. Evidence of individual murders was given, and stood uncontroled. In some of the cases, more than three murders were proved; but in this case, no evidence of any particular murder by the prisoner, has been attempted to be offered—and for the best reason—because no such evidence can be offered. If the Counsel for the Crown had such a proof to lay before you, they would have done so. Then upon this trial, the only one in which no murder is brought forward in accusation—no murder has been proved. Who is the witness who has been examined to convict the prisoner? Let us suppose for a moment, that the whole of this case depended upon what *McCabe* swore. Let us strip it of all collateral circumstances, and if we do, I think the Court will support me in saying this,—that on his testimony, even if it deserved credit, nothing more than a misprision of treason has been proved against the prisoner at the bar. I say upon his individual testimony, no more has been proved. He has shewn a meeting—a consultation between the prisoner and *Allen* and two others—but still confining myself to his testimony—

COURT. (There has been evidence of a consultation and conspiracy.)

Mr. MAC NALLY. My Lords, That only goes to shew, that there was in contemplation something to be done; but there is no satisfactory proof of what was to be done; and there is no such proof that the prisoner did any thing whatever in furtherance of whatever that consultation was about. The witness has shewn that he and three other men met for a particular purpose. But the law is, I speak under the correction of the Court, that there must not only be a consultation, but an *overt act*, that is, an open deed done, in order to convict the prisoner. If A. B. and C. meet, and have a consultation for any purpose, however wicked—if they did not consent to carry the object of their consultation into execution,—for not only a consultation, but the treasonable purpose of the consultation, must be proved to make the consultation an overt act of treason. My position is, that bare concealment without express assent, amounts to no more than misprision of treason. The overt act laid here is, that the prisoner conspired with others to levy war. As to the other overt acts, I throw them out of the case; the evidence given applies to them, and you, Gentlemen of the Jury, will reject the recollection of them; they amount to no more than this, that he left his house with intent to do so and so, which were thrown in, I suppose, to fill up the parchment, without being material or of any other use whatsoever.

With great submission to the opinion of the Court, I did venture to say, that you, Gentlemen, are not to receive as true, every thing which appears to have been said by the prisoner. If ever a witness came in a questionable shape, it is this man whose evidence you have heard, and on which it is my duty to observe.—It is oppressive to me to say, and to the Court, and to you to hear, what my situation as an advocate obliges me to urge day after day, treading over the same beaten ground the mind becomes weary and languid, in stating repeatedly what it is right to state—and argument becomes uninteresting to the hearers from the same cause.

I ask you in what light does the witness appear? He is by his own confession an accomplice—an actor in the most foul and tragical scenes. Why does the law say,
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an accomplice is a competent witness?—it is because every man who believes in the existence of a God, and future rewards and punishments, is competent, unless convicted of an infamous crime. The competency of such a witness, stigmatized as he is, is a point I never contested. The Judges will do me the credit to say that.—But he is not a person, whose evidence is to be received and to go to a Jury, accompanied by the strictest caution, weakened as his credit is by his own confession of crimes?—I will admit more—adverting to what fell from the Bench—I do admit it has been ruled—that if the Jury give credit to an accomplice, they may convict upon his single testimony—a case was referred to in support of that doctrine, and the point is reported to have been determined by twelve English Judges.—But what was that case? It was the case of one single and individual act of atrocity committed by the prisoner in company with the accomplice, who turned approver. He swore to the fact of stopping a chaise, and the robbery, and he described the goods taken from the party by the robbers.—The goods taken were produced in Court, and sworn to by the owner as the property he had lost. The accomplice appeared unimpeached, save as this single act of robbery. But how does the witness in this case appear? He was sworn in the last rebellion to act as a traitor. He has told you he considers it an honest and a fair thing, to kill the King's subjects in open war, and rob them of their property. In his judgment, when rebellion rages, killing the loyal subjects of the Crown is no murder. You heard him endeavouring to level all distinctions between war and rebellion—between honourable conflict and abominable assassination—contriving an apology for the man who broke his allegiance, and conspired to murder his fellow-subjects—a conspiracy, which in itself includes every atrocity—murder—rape—robbery—burning of houses—massacres—not of individuals—but as we all know of whole bodies of people. Would you, Gentlemen, believe that witness was swearing truly, when he told you, that he never heard of what happened at *Scullabogue*?—I suppose he never read of the horrors of *Wexford-bridge*, or the number of men who were tried, and who were executed as the perpetrators of those atrocities. I am to presume, he never read a magazine or a newspaper, or that accurate, candid, and eloquent work
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of Sir Richard Musgrave, or not to speak ironically, the history of Mr. Gordon; nor even looked to the other side of sanguinary details, the compilation given by Mr. Hay, who confesses and states the massacre at *Scullabogue*. The witness was an *United Irishman* since 1798, and being such, he must have known how the country was organized; he must know the purpose of the conspiracy, because it appeared publicly in the examination before the two Houses of Parliament, and yet, denying all knowledge of these transactions, he would have you believe, that every thing he has sworn is true and just, he would have you give credence to every thing but what impeaches his credit. Can you believe such a witness—can you for a moment hesitate in saying, he deserves no credit? Permit me to recommend that, before you bring in a verdict against the unfortunate gentleman at the bar, who is not 23 years of age, to ask yourselves this question—would you believe, that an old *United Irishman* was seduced into the rebellion of 1803, or was not rather the deceiver and the fiend who first seduced these betrayed, accused and abandoned? Has he not acknowledged, that he never confessed his own infamy, till he was taken up, and in custody—that he gave information when in duress, and is he not stigmatized, and rendered infamous and undeserving credit, out of his own mouth, when he swears he has no hope of impunity, nor knows what will become of him, knows not whether his life will be pardoned, or be handed over to that execution which his acknowledged crimes deserve? Surely in that particular he swears false, he swears false, because he must know, that the present Government have acted under sentiments so humane and so benign, even to the enemies of the state, that mercy will be extended even to him, though he is not deserving their clemency. When he pretends he has no ideas of that kind, no hope of pardon fluttering about his heart, no self interest or love of life influencing his testimony, you must suspect him to be false, and, finding him so in one fact, that vitiates every thing he said, which attaches to the prisoner at the bar.

Gentlemen, It is a rule in civil and criminal cases, that where there is an immediate interest, the mouth of the witness is closed. If it be a case of forgery, the party who is to lose by the instrument, if it be genuine, cannot

cannot be examined. What is the interest here? the life of the witness; his life is endangered by his crimes; is not that an immediate interest beyond all pecuniary consideration? but what has he confessed? he declared he had no objection to be concerned in rebellion. He who enlisted under its banners, and though not a leader, was actively employed in a subordinate situation. You heard him declare audaciously and wickedly, he did not consider it murder to put the King's subjects to death in battle: would he dare to declare this if not certain of pardon? he is a man who finds it necessary to save his own life by the sacrifice of another; has he not an interest, an invaluable interest in doing so? self-preservation the first law of nature, is his guide; look to his credit upon this ground! and ask yourselves, does he deserve credit; the answer must be, he does not.

It is probable he never took the oath of allegiance; it makes no difference whether he did or not; every man is born under a solemn obligation to shew allegiance to the crown; the duty of allegiance does not depend on the oath prescribed by law: it is founded in the relation every person stands in to the crown, and in the rights and privileges, the immunities and the protection he derives from that relation; it is inculcated by his religion, "Fear God, Honour the King;" a man is bound to the government of his country by every social tie; from the protection he receives from government he owes allegiance and support; he owes that allegiance to the crown, which is the head of that society, whereof he is born a member. The rights he derives are born with him, they are indefeasible and perpetual, and so his allegiance is unalienable and perpetual; the witness broke through that moral and political obligation; but still more, he has trampled up the divine code; the law of God says, "Thou shalt do no murder;" no man is sworn to keep that commandment, and yet if he commit murder, he is as guilty of a moral perjury, as if he were sworn upon the Gospels of Christ, not to commit it; when God said, "Thou shalt not bear false witness against thy neighbour," the man who tells a lie to the injury of the life, of the character, or of the property of another, is as guilty of perjury, as if he were sworn to keep that commandment; and therefore I deduce

duce this position, that this man, though he never took the oath of allegiance, was as much perjured when he took the oath of an *United Irishman*, as if he had been sworn never to take it.

I do not impute perjury to him for betraying his party, but I see no merit attached to him by so doing; if he acted from humanity, or a respect for society, he might have some merit with you; but he did not act from either of those motives, he was in prison and his life was in danger before he seceded from and betrayed his party; his treachery was not the result of repentance, but of mean and base cowardice; I advert now to two circumstances; one is an act of parliament, the other a principle of justice. The stat. 3. Ed. I. speaking of approvers, and I wish those who have the care of gaols would attend to it, "If a man be imprisoned, and the gaoler, by duress of imprisonment, shall extort from him any confession, or any evidence against another, for the purpose of becoming a witness against that other, he shall be guilty of felony:" how does that apply here? the principle of the law goes to every man obtaining such evidence by such means. Every man does not incur a felony, because he is not within the strict letter of the statute; but he incurs a censure, because he is within the principle of the law; and Lord *Coke* says, "it is not lawful to induce, or excite any man, even to a just accusation of another, much less by duress of imprisonment, and least of all by a gaoler to whom the prisoner is committed for safe custody;" these words have been adopted by Sir William *Blackstone*, in the ablest manner, and he has been followed by that great Jurist, Lord *Mansfield*, whose expressions I will read: Speaking of approvers in the case of Mrs. *Rudd*, he says, "no doubt, if it was not necessary for the execution of the law, against notorious offenders, that accomplices should be received, the practice is liable to many objections, and though accomplices are competent witnesses, their single testimony alone is seldom of sufficient weight with a jury, to convict a prisoner. So strong is the temptation to commit perjury, if, by accusing another, he could acquit himself." These are the words of Lord *Mansfield*, they have been adopted, and I have often heard the same sentiments, from the judges

judges who are this day presiding, though perhaps not in the same precise words. I ask you, Gentlemen, does not this legal doctrine apply to the witness? Does it not apply to your own conscience, and tell you he deserves no credit, in a case where his own life is the reward, and in case the Prisoner be convicted?

Now, Gentlemen, it is certainly true, that the witness in this case, does not stand convicted upon record: he only stands impeached on his own confession of his own crimes. If he were convicted, he would not have opened his mouth, his lips would have been for ever closed as a witness; and therefore, he is now standing before you as a culprit. For, in fact, you have two men to try:—you have first the witness to try, in order to see, whether he deserves credit; if he does not, you convict him as a perjured man, and leave his punishment to another tribunal, but he stands convicted on record in your consciences, the finger of God hath written his conviction in your hearts, and, by the same almighty finger, and upon the same hearts is written, the acquittal of the young man at the bar; because, if you convict the witness of perjury, you cannot consider the Prisoner as meriting conviction, on any fact he has sworn to.

Gentlemen, I am to state, as part of this young man's case, that, as to the facts sworn against him, he has no witness to produce: and I do know, it has been argued, on other occasions, that the non-production of witnesses is a kind of negative evidence, tending to convict the Prisoner. But upon principles of law, I deny the validity of the argument. It was not until very lately, indeed, that witnesses were allowed to be examined for the Prisoner, and even much later were his witnesses allowed to be sworn; because, as a great Jurist expresses it, the evidence against him ought to be so conclusively impressed upon the mind of the Jury, that there should be no doubt of his guilt; That is Lord *Coke's* excuse for the practice, and I adopt it here; because the Prisoner stands accused by the single testimony of an accomplice, whose inventions and perjuries he could not be prepared to answer. There are other witnesses I admit, and I shall make one or two observations upon what has fallen from some of them. *Browne* said, that the Prisoner breakfasted at his house,
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upon the 23d of July. Mrs. Browne was brought to say, what? Why to say, she knew nothing of the matter. Then came *Morgan*, the fisherman; and his evidence is material for the Prisoner. The latter asked him, what luck he had in fish, and something was said about the barrack. What kind of a character was *Morgan*? We have had old-clothes-men, bakers and tailors, in the *Provisional Government*; was not a fisherman as likely to be picked up as any other character: he knew the Prisoner from his youth, was seen by him every day and week, and notwithstanding that intimacy there was no attempt to engage this man in this cause. Is not that general negative evidence to shew this—that, if the Prisoner were a conspirator, he would not have lost such an opportunity of making another conspirator; He would have made an attempt upon the fisherman and the crew who attended him in the bay; but there is no evidence to shew that he made the slightest attempt of that nature.

It has been stated by Major Sirr, that he went to a house upon the *Coal Quay*; you will determine, whether that was the Prisoner's house, but supposing the Major's evidence went no further, then I would tell you, that you could give no credit to it. Let it not be supposed, that I am controverting his account of what he saw, or his relation of what *McCabe* told him: I do not. Pikes and other implements were found; that is proved; but when was that? The Prisoner had not lain at home on the night of the 23d of July. The paper which hath been produced, is evidence for the Prisoner, being offered by the Crown. You are to take the whole of it into your consideration. The Prisoner was at home in the morning, but was he at home, when those implements were delivered at his house? Having left his house, the presumption is; that they were deposited there in his absence. When *McCabe* and his associates got possession of the adjoining houses, they opened a communication for carpenters to work, in forming those machines that have been described.

Gentlemen, I do not controvert, that the Prisoner fled, that is, that he went on board a ship; but it is a remarkable circumstance, that he never changed his name. And why did he fly? Because it might probably be true, that he was at *Browne's*, in the morning of the 23d of July,

July, and might have heard more in the course of the day which might render it necessary for him to avoid being apprehended for that, which I call a misprision of treason. But, even if you were satisfied of that, it would not authorize a conviction upon the indictment. Flight is a fault, but innocent men may fly from fear, may fly, to avoid imprisonment or suspicion.

Gentlemen, I have taken up too much of your time, and I thank you and the Court, for the indulgence I have experienced. I have only to add, that the young man at the bar is of a respectable family, that he was early in life, bound to a hatter, he afterwards, when he came of age, commenced coal-merchant; and, Gentlemen, in order further to weaken the testimony of the approver, I will produce a contrast to it, a character which is not impeached, and then I will leave it to you, which is most probable, whether a virtuous young man and a good son is better entitled to your verdict of acquittal, as an innocent man, than the approver, self-impeached as he is, by his own testimony, of being guilty of such enormous crimes, as perhaps, the history of the enormities of mankind collected together, can scarcely produce. Therefore, Gentlemen, you will give full credit to the character of my client, who is upon his trial for his life, and you will discredit the witness, who, to save his own life, comes to seek this young man's blood.

James Cruise, Examined by Mr. CAMPBELL.

Q. Where do you live?

A. In *Parliament-street*.

Q. What business do you follow?

A. A hatter.

Q. How long have you followed that business?

A. Twenty years.

Q. Do you know the Prisoner?

A. I do.

Q. How long?

A. He served his time to me.

Q. You had of course, full opportunity of knowing his general character, and conduct. What was his general character for honesty and propriety of conduct?

A. I always thought him faithful industrious and honest, as much as apprentices generally are.

Cross-examined by MR. ATTORNEY GENERAL.

Q. Do you know any thing of the Prisoner's character for loyalty?

A. No, I never heard it questioned.

Q. How long is it since he left you?

A. It is between two and three years since he lived with me.

Q. By Mr. Campbell. Have you known his character since?

A. I have not known much of him since.—I met him in the street and used to speak to him. I always considered him a very proper young man.

William Clarke, Examined by Mr. CAMPBELL.

Q. What business do you follow?

A. A plumber.

Q. How long do you know the Prisoner?

A. Since he was fourteen.

Q. What has been his general conduct and character, since you have known him?

A. From the time I knew him, I never heard any thing of him, but that he was a quiet and peaceable man in the neighbourhood.

Cross-examined by Mr. MAYNE.

Q. You are a very old acquaintance of the Prisoner?

A. I served my time in the neighbourhood, where he was born.

Q. You knew nothing of his politics?

A. Nothing in the world.

Q. Where did he live at the time of the bonfire on the 14th of July, upon the Coal-Quay?

A. I cannot say.

Q. Was it opposite to his door?

A. There had been different fires—I saw a fire upon the 12th, and another upon the 14th of July.

Mr. Mayne. I shall not trouble you.

Witness.

Witness. I was rather confined by the gout,

William Grimshaw,

Examined by Mr. CAMPBELL.

Q. Where do you live?

A. On the *Merchant's-Quay*.

Q. What business do you follow?

A. A calico-merchant.

Q. How long have you known the Prisoner?

A. Part of two years—I have had an opportunity of being acquainted with his character almost two years. I first saw him with a Mr. Ryan of *Limerick*.

Q. From what you have known of his character and conduct—what has it been for propriety and honesty?

A. He was recommended very highly to us for honesty and industry, and he chose goods at our place, for Mr. Ryan, and we bought coals for him at the *Coal-Quay*. I always thought him an honest and proper man.

Q. You never heard of his character for loyalty being impeached?

A. No.

Cross-examined by Mr. TOWNSEND.

Q. You know nothing about his politics?

A. No, nothing, only he was recommended to us, as an industrious young man, to do business sometimes at our house.

Daniel Egan,

Cross-examined by Mr. MAC NALLY.

Q. Where do you live?

A. At No. 12, *Coal-Quay*.

Q. What business do you follow?

A. A Shoe-maker.

Q. Have you known the Prisoner?

A. I have.

Q. How long?

A. Eight or nine years.

Q. Are you acquainted with his general character?

A. I never heard any thing bad of him.

Q. Did

Q. Did you ever hear a bad political character of him?

A. No, not previous to the 23d of July.

Cross-Examined by Mr. ATTORNEY-GENERAL.

Q. Did you ever converse with him upon political subjects?

A. Never.

Case closed on behalf of the Prisoner.

Mr. ATTORNEY-GENERAL said, he would not trouble the Court with any observations upon the evidence.

MR. BARON GEORGE,

Gentlemen of the Jury,

The Prisoner *Denis Lambert Redmond*, is indicted for two species of treason;—first, for compassing and imagining the death of the King, and secondly, for levying war for the purpose of overthrowing the government of the country.

Gentlemen, to maintain this charge against him, it is necessary, that some of the overt acts laid in the indictment in support of one or other of these species of treason, should be fully proved to your satisfaction. I shall point your attention to the several overt acts, and it will be for you to consider, whether any of them have been proved to your satisfaction, by the evidence which you have heard.

(The learned Judge stated the overt acts in the indictment, and then summed up the evidence. After stating the testimony of *Wilson, Coulman, Rice* and *Douglas*, he observed,)

The evidence of these witnesses only establishes the allegation, that war was levied for the purpose of overthrowing the King's government. The rest of the case was most peculiarly fit for the consideration of the Jury, to which you, Gentlemen, will direct your attention, to see whether the Prisoner took any part in that conspiracy, and committed any of those facts which are stated in the indictment. As to them, the first witness examined was *Patrick McCabe*.

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(The learned Judge here stated the remainder of the evidence.)

Gentlemen, upon this evidence, you are to consider, whether any of these overt acts has been fully proved or not,—whether the Prisoner did enter into the conspiracy, for the overthrow of the Government—whether he caused pikes to be made, and concealed weapons for that purpose, for the evidence applies directly to these charges, if you believe it; and these are the important overt acts to which you will particularly direct your attention. The Prisoner is expressly charged with having entered into this conspiracy, by the testimony of *McCabe*; and if you believe what he has said, supported as it is, by other evidence, it will go clearly to prove the fact of the conspiracy.

Gentlemen, the exceptions which lie to the credit of *McCabe* have been dwelt upon by the Counsel for the Prisoner, and it is a very great satisfaction to the Judge presiding at a trial of this nature, that the accused is assisted by Counsel, who urge every point that can be beneficial to the man upon his trial. There is no doubt, that a person who confesses, that he himself was guilty of taking a flagitious and treasonable oath in the year 1798, and confessing also, that he entered into a traitorous conspiracy upon this rebellion in 1803—that he was armed with a blunderbuss against his fellow subjects, to carry on that rebellion by bloodshed and murder; undoubtedly, all these facts must greatly impeach the credit of the man, and you, Gentlemen, have to determine, whether he has told a falsehood, or not, whether his account appears supported and corroborated by collateral circumstances and other proofs in the case, so as to bind you to assent to the truth of his allegations. Because, though a jury might convict upon the testimony of *McCabe*, even though there were no other witness, yet it would require great caution and consideration, before they would convict a man of a crime of this nature, upon the uncorroborated testimony of an approver, appearing in such a light as the present witness. But, if he be supported by other facts, shewing that what he said was true, you are bound to find a verdict according to the truth.

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The facts in confirmation of his testimony, appear to be these: the witness states, that, after the conversation which was held in the morning, in the neighbourhood of *Island Bridge*, they went to that very place, where one of the attacks was to be made, and they breakfasted at a house near the bridge. He is so far corroborated by *Browne*, who says, that four persons breakfasted there that morning, and that the Prisoner was one of the party, and *McCabe* another; so that *McCabe* and the Prisoner, and two others are proved, if you believe the evidence, to have breakfasted there that morning. *McCabe* has told you the business upon which they collected there, and no other business is suggested by the Prisoner. A further circumstance of corroboration is this: *McCabe* was an utter stranger, before that time, to the Prisoner, he told you, that the Prisoner spoke to a fisherman, who is produced, and shews by his testimony, that such a transaction passed: and he states, that the Prisoner had before that, asked him concerning that *fine barrack* which was in his neighbourhood, and how many men it contained. These circumstances are of some weight, and should not be rejected. You will determine what force they should have. *McCabe* swore, that he returned to *Dublin* with the Prisoner, and was to have gone to his house with him, but the Prisoner being stopped by some acquaintances, the witness went forward to that house, which he afterwards shewed to Major *Sirr*, to be No. 14, on the *Coal-Quay*, and there he saw two carpenters at work rounding poles, of which there were about twenty. But the Prisoner not returning, the witness did not wait. This was the very morning of the 23d of July, and see, whether in this allegation, he is supported or not. It appears, that in two or three days after, some pikes had been thrown into the *City-Coal-Yard*. The Prisoner's house was locked up, so as to render it necessary to break open the door; there appeared within, shavings and benches, and carpenters tools, and such a number of pikes as must have taken considerable time and ingenuity to finish, because there were not only pikes lying out, but there were many concealed in cases, in such a manner as to pass for pieces of timber, and all these were found in that very place, where the witness said, he saw the carpenters at work.

You will determine, whether these works were carried on with the privity and consent, or without the knowledge of

of the Prisoner. The very best man is liable to have weapons concealed in his house, by servants, or other persons in his employment. But you will judge, whether all these things could have happened, and these works have been carried on without the knowledge, privity or consent of the proprietor of the house.

There is another circumstance tending greatly to corroborate the testimony of *McCabe*, if you believe the evidence of Mr. *Read*, that is, the flight of the Prisoner, after the rebellious attempt was defeated; because, if you believe, that he was flying, in order to get into another kingdom, without a passport, and that he told those falsehoods, as they now appear by the testimony of a witness to whose credit no exception lies,—Ask yourselves, why the Prisoner said he breakfasted at his own house, and that he did not go out till after twelve, but afterwards, when *McCabe* and *Browne* are produced to him, he immediately admits the statement of *McCabe*, and by that very circumstance does confessedly bring himself into company with *McCabe*. You, Gentlemen, will consider, whether the Prisoner joined with the conspirators, or procured pikes for the purpose of rebellion, or kept them for that purpose. If, under all these circumstances, you have a reasonable doubt upon your minds, with regard to the guilt of the Prisoner, such a doubt as men with safe consciences may entertain, you should acquit him. If you have no doubt, and are convinced that *McCabe's* account is true, and that the Prisoner acted in the manner which has appeared, you ought to convict him.

The Jury retired for five minutes, and returned a verdict *Guilty*.

Mr. ATTORNEY GENERAL prayed the judgment of the Court.

The indictment was read, and the Prisoner was asked, what he had to say, why judgment should not be passed.

Prisoner. Judging from the awful situation in which I stand, I beg to address a few words to the Court—merely as far as concerns the evidence against me.—First,—as to that of *McCabe*, and what passed at *Island-Bridge*, I am convinced, he in some degree exaggerated.—As to his going to my house, and seeing pikes there, I disavow it.—

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There were no pikes there, nor had I any communication with him, prior to the morning of the 23d of *July*.—As to his testimony upon that part, I must confess it is constituted of perjury of the blackest dye.—As to Major *Sirr's* evidence,——the conversation I had relative to my situation upon the morning of the 23d, and the answer I made—I did not recollect, where I breakfasted,—on recollection afterwards, when I saw *McCabe*, I stated, I did breakfast at *Island-Bridge*, which actually was the case.—I will not attempt to mention what transpired between us,—I believe all the answers read by Major *Sirr* from the paper, were actually the case.—As to the evidence of Mr. *Read*, as far as concerns the conversation between us, upon the subject relative to the character of *Bonaparte*, I confess, he was the first person who introduced it,—he first drank the health of the King—I drank it—I then gave the health of General *Bonaparte*, and he censured it, and spoke hardly of the character of *Bonaparte*, which I defended, alleging, I had a right so to do, as I had read in the public papers, that several respectable persons were taken into custody in *London*, and punished for daring to impute any thing to the character of that great man. I do not now hesitate to tell the Court, though the halter is around my neck, and the axe ready to sever my head from my body, that I was placed in an official situation, acting under the Provisional Government.—I acted with that energy which would promote its welfare, as I thought. I acted according to the dictates of my own mind and principles.—I will acknowledge, that its completion and success was the full amount of my wishes. Had any of my proceedings relative to the 23d, been brought forward, I should feel myself highly——

(Here the Prisoner became so agitated, he could not speak for some time. After a pause of some minutes, he added,)

The situation of my mind will not permit me to say any thing more—I submit to the sentence.

MR. BARON GEORGE. If you wish to say any thing more, that may ease your mind, we will wait as long as you please.

Prisoner.

Prisoner. I have nothing more, but after I am sent to the cell, that no visitors shall be allowed to see me. Let no strangers be admitted from curiosity. I wish to have a chair.

Mr. ATTORNEY-GENERAL. I gave directions that the prisoners should be furnished with chairs and tables.

Prisoner. I have been denied the use of pen, ink and paper. I trust I may be permitted to write a few letters to my friends.

Mr. BARON GEORGE. We shall give directions as you desire.

Prisoner. I will say this much, that I saw no pikes in my house, nor were any made there.

Mr. Baron GEORGE.

Denis Lambert Redmond! The crime of high treason, for which you have been tried, has been established against you by evidence the most satisfactory. Indeed, your own declaration at this moment shews, that you were guilty of the offence of which you stand convicted. You have admitted, that you were in the employ of *The Provisional Government*, having thrown down the allegiance which you owed to your King and country. It is truly lamentable; that before you entered on an enterprize so destructive and so daring, you did not reflect a little on the consequence;—that you did not take into consideration all the horrid crimes, which must have been committed, before your hopes could possibly be realized; crimes of all others the most odious in the sight of God, and of God's creatures. Nor think, that you can make any distinction favourable to yourself in the division of offence—for every crime committed on the dreadful night of the 23d of *July* last, must be upon the heads of *The Provisional Government*, whoever they are, and upon the heads of those agents, who entered into their wicked service. And could any thing more clearly shew the anger of Providence, than the circumstances attending your escape from justice, and your apprehension. You embarked in a vessel to leave the country, but He, whom the winds and seas obey, forbid your flight, and brought you back to those shores where your crime was committed, and where atonement was due. Was there ever

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a case since the beginning of the world, wherein the interference of Divine Providence was more palpable?—What was the design of *The Provisional Government*? To declare *Ireland* an independent republic, and to sever it from Great Britain. If indeed they sincerely entertained such a notion, they must be fools, and entirely insensible to the difficulties and disadvantages of such a scheme. Surely there is no man of common understanding, and at all acquainted with the excellency of the British Constitution, who does not know it far surpasses any Republic, or any simple form of Government in the world. Every man, who asserts the reverse, has been again and again refuted fifty times over; and any man with a knowledge of history, and who has had a liberal education, which appears not to have been your good fortune, would never compare the British Constitution with that of any other country. But what monstrous ignorance and infatuation must possess the man, who is able to read a newspaper and could believe, that *Ireland*, separated from England, could retain her independence. If once severed from that land of freedom, and that race of freemen, must she not of necessity become subjugated to the most abandoned and abject slavery that ever disgraced the human form? In Turkey, or any of the Eastern countries, where can be found slaves so degraded as in *France*? and could any but madmen for a single moment entertain the project of relinquishing British freedom and British connection, for so vile and hard a destiny? Could the practicability of such a measure have seriously entered the heads of any set of men, how could they have abandoned themselves to the base election, or their country to the miserable fate, of separating from the freest and happiest people that ever illuminated the dignity of human nature, to connect themselves with the slaves of a *Corsican* usurper? How could reason so err? But though you could have broken that proud and honorable connection which, I trust in God, will continue indissoluble until men, and nations, and time, shall be no more—see what dreadful means you must have used—what arrogance in design—what cruelty and horrid crime, in the execution. No attempt is made by argument, to convince the reason and induce the co-operation of your countrymen, but a number of mortal weapons is secretly hoarded up,—blood is the first thing
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in the contemplation of your purpose; the rabble of the country are invited to take arms, and to fall with savage rage upon the civilized, informed, and virtuous part of society. Was ever such wickedness—such abandoned and sanguinary wickedness heard of? How could freedom; or any principle conducive to the happiness of man, spring out of such means? Had your schemes been even formed by wisdom, and calculated for the most salutary operation on the happiness and prosperity of your country, what right has any man to arm himself against the life of his fellow-citizen, because the latter prefers to live under an established and rational government, dispersing blessings to him, and to his fellow-subjects? What unaccountable arrogance, cruelty, and injustice in the individual;—and what unspeakable calamity to the public, if every visionary in politics is to start up at pleasure, and prescribe his form of government by force of arms?—Was any thing ever heard so horribly revolting to the feelings of humanity, and the dictates of reason? Whatever your education may have been, your own reason must have shewn you, that the vengeance of God must be particularly denounced against conspiracy, because of the magnitude of those crimes it necessarily embraces. You must have counted on thousands of murders, before you could have effected your purpose and the most dreadful massacres, the most indiscriminate havoc of their quiet and unoffending countrymen, must have been consequences familiar to the minds of those who could form a plan of this kind!

Young man! You have now been a long time in gaol; you have had much time for reflection during the period you have been in the hands of the law; many unhappy victims have fallen beneath its justice. You have heard them going out to execution with the general consent of the public—not a popular regret attending their fate; but reason, virtue and religion, deriving confidence and security from their punishment.—You witnessed all those examples, passing under your eyes;—the voice of justice vindicating the happiness of society, was every moment reaching your ears; yet only think, young man! how wrongly you have conducted yourself. The law allowed you pens, ink and paper, to instruct your Counsel, and that you might derive every fair assistance from their advice, and the suggestions of your own mind. The law
allowed

allowed you this, for it is the pride of our laws to labour more for the acquittal than the conviction of the accused, however black the allegations of offence, and yet—for God's sake, consider how you have used this indulgence.

I have looked into parts of the pamphlet or paper you have written, and most unfortunate must it be for any man in your situation, to leave behind him ~~such a~~ hardened and unprincipled invitation to crime. ~~You~~ were not satisfied with bringing yourself to the end which awaits you, and of having contributed to the fate of those who have gone before you; but at a time and under circumstances, where your thoughts should have taken another direction, you were labouring to perpetuate your errors and your crimes, and by the influence of your wicked advice, bring to shame and death, after you were in your grave, poor men, who otherwise might live in peace, industry and happiness, in the bosoms of their families. For God's sake, did you consider how erroneously you were aggravating the guilt which already pressed upon your soul? How could you reconcile to your conscience to bring any man to that fate, which had so justly overtaken yourself? or how could you, with any means of religious feeling, prepare to meet your God under such circumstances?—How could you hope ever to remain at rest in your grave, carrying with you into it, such deliberate and fiend-like enmity against the peace and happiness of your country?—Oh! it is lamentable, young man, to see the human heart so depraved, and the motives of public good so grievously perverted to the ends of social disorganization and misery. You appear to have been bred a mechanic, and it is easy to see, that you have not had learning to fit you for any higher station under *The Provisional*, or any other Government: the obvious defects in your spelling, with other gross errors in that shocking composition of your's, now before the Court, sufficiently prove how little your education could have justified or supported your ambition. Believe me, it is no easy thing to become a legislator, and a ruler. It is no small thing to assume the cares, and the weighty and intricate duties, which devolve upon the statesman; and eminently must he be gifted in himself, who undertakes to govern others. He should not only have an
highly

highly cultivated understanding; but he should also have experience; and the learning which he derives from past times should be directed by a knowledge of his own; he should be able to trace the hidden springs of human action, and he should have that strength of mental vision, which could pursue human nature into those recesses, where it escapes the observation of common men. With all this, he should have virtue, and be influenced by a tender and religious regard for the happiness of those committed to his care; else miserable must be the lot of that people, whose interests are subjected to the will of vice and inhumanity, whether allied with ignorance or talents. How were your power, or your dispositions calculated for public authority? You have by one and the same act furnished record against both. Not satisfied with having brought yourself under the avenging hand of the law, you dedicate that time which should have been devoted to God, and during which you should have worn with your knees the very flags of your cell, entreating forgiveness of Heaven;—that precious time you mispent in composing, and endeavouring to get published, one of the most wicked, remorseless, mischievous, and ill-intended pamphlets, that could possibly have been conceived.

It is really one of the most painful duties, which can devolve upon man, that of consigning to death one so unfitted for that awful event, as you are; and who instead of praying and repenting, has so recently been inflamed with bad passions—and which you were only solicitous to communicate to others. I therefore entreat, that you will not mispend another moment, or add, by other deeds, to the sins which you have to answer for already. Humble yourself before your offended God, and do every thing which yet remains to conciliate his mercy; and rely, young man, that nothing can so effectually assuage the divine anger, as a becoming sense of your own crimes, and a sincere and contrite endeavour to prevent the continuation of those crimes, and of their consequences to your country.

The learned Judge then pronounced the sentence in the usual form.

The prisoner was executed upon the Coal-quay.

Counsel for the Crown.

Mr. Attorney General,
Mr. Mayne,
Mr. Townsend,
Mr. Ridgeway.

Crown Solicitors.

T. & W. Kemmis.

Counsel for the Prisoner.

Mr. Mac Nally,
Mr. Campbell.

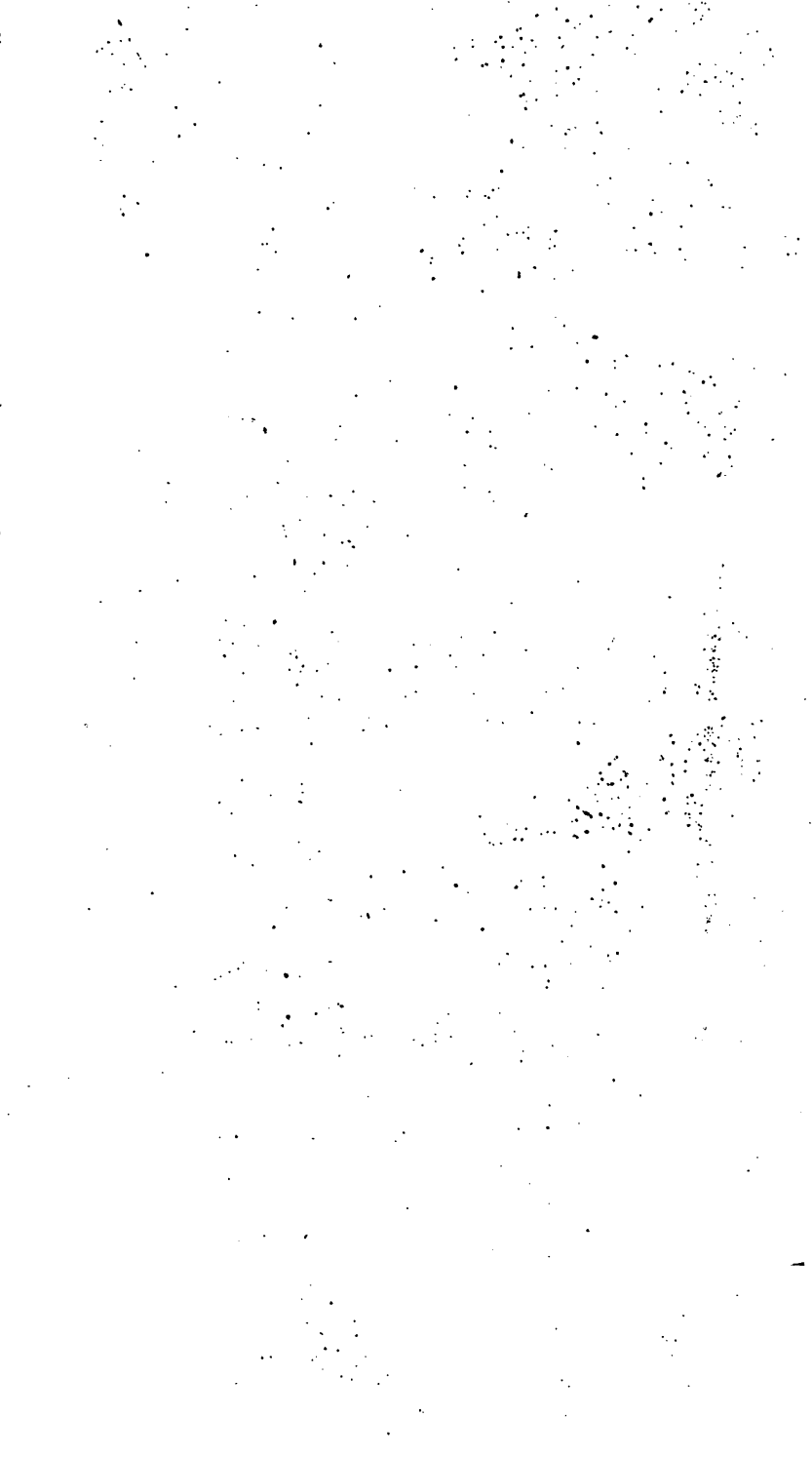
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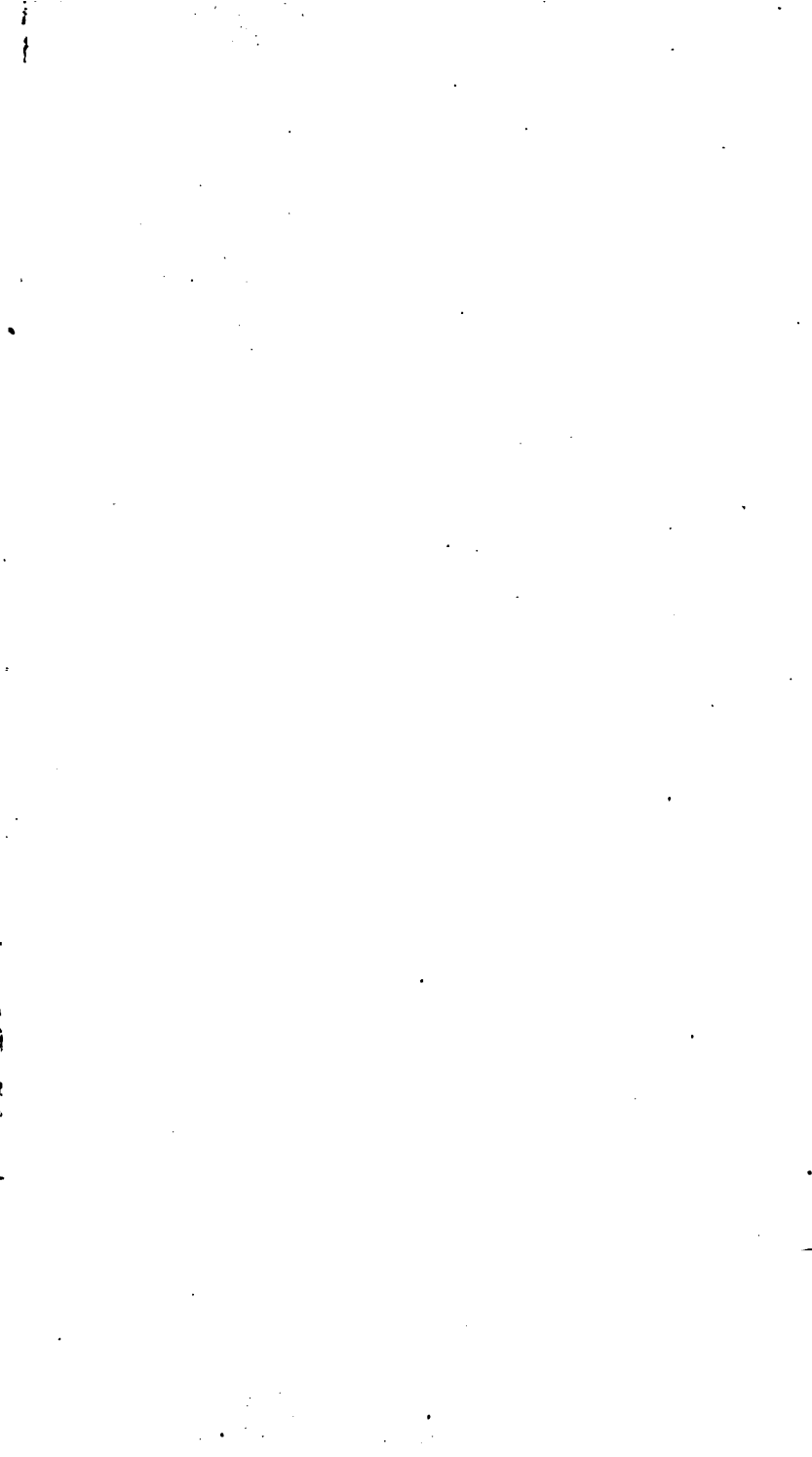
Mr. L. Mac Nally.

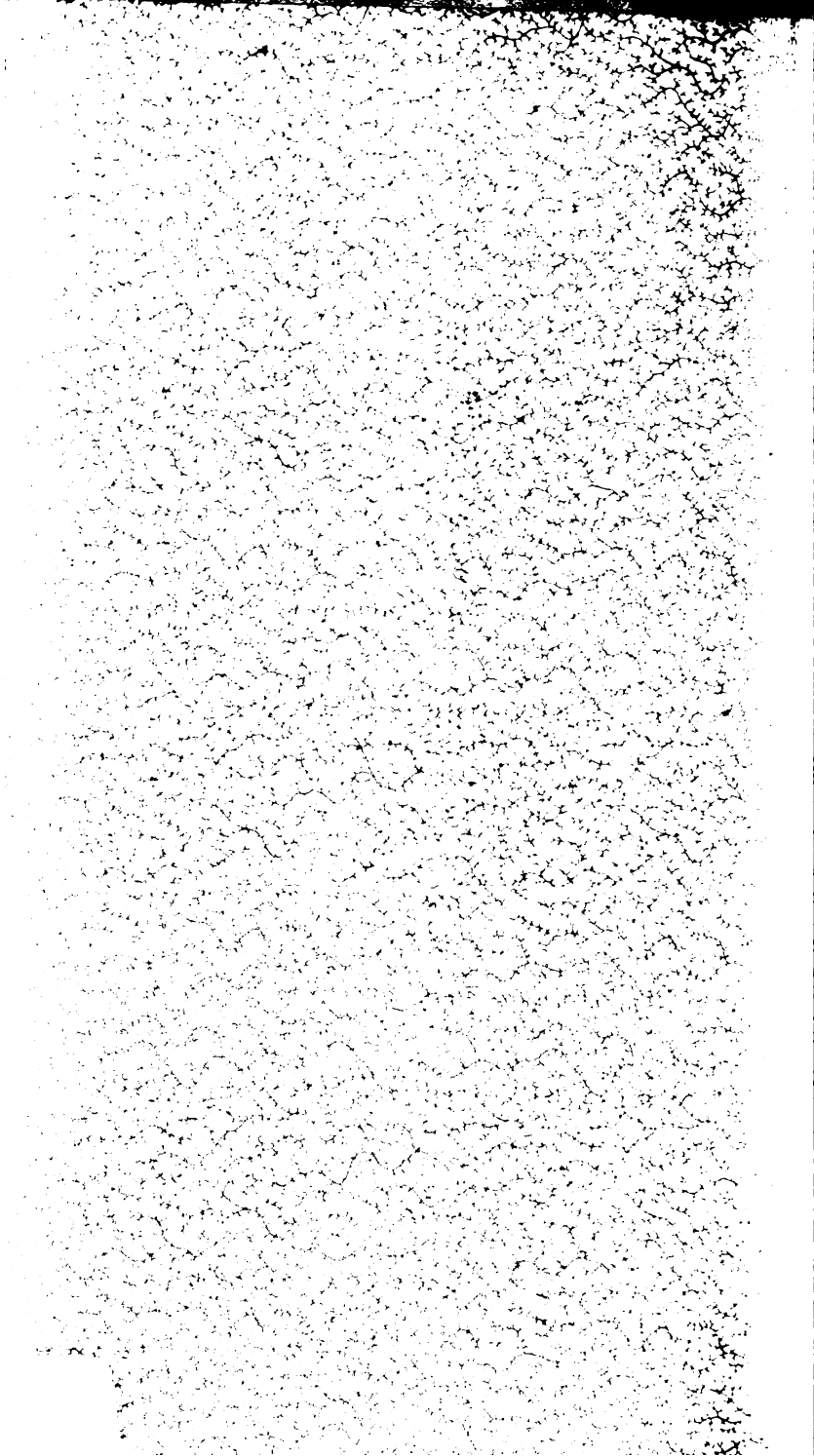
Note. This was the last person tried at the Special Commission. He was to have been tried upon the 5th of September, on the morning of which day the gaoler went into his apartment, and found him lying on the ground weltering in blood; a pistol was found near him, and it appeared, that he had shot himself in the head, but the piece of lead, (for it was not a ball) had taken an oblique direction, and had not entered the skull, and surgical assistance being immediately procured, the wound did not prove mortal, and he was completely recovered when he was tried.

The above circumstance was not in any manner mentioned during his trial.









B'D. FEB 7 - 1913

FEB 20 1913

JUL 3 1913

